

CITY OF KEY COLONY BEACH, FLORIDA
CODE ENFORCEMENT DEPARTMENT

CITY OF KEY COLONY BEACH , FLORIDA

Petitioner,

-vs-

Property: 1000 W Ocean Dr.
Key Colony Beach, FL

CHINA BEACH USA, LLC,

Respondent.

STIPULATED SETTLEMENT AGREEMENT

This Stipulated Settlement Agreement (the “Agreement”) is made this ____ day of April, 2022, between CHINA BEACH, USA, LLC, 18851 NE 29th Ave, Aventura, FL 33180 (the “Respondent”) and THE CITY OF KEY COLONY BEACH, P.O. Box 510141, Key Colony Beach, Florida, 33051, a Florida Municipal Corporation (the “City”).

WHEREAS, the Respondent is the legal owner of residential property located at 1000 W Ocean Drive, Key Colony Beach, Florida 33051, classified as a single-family residence, (the “Property”); and

WHEREAS, the Respondent has received a Notice of Ordinance Violation issued on March 25, 2022 in the above-referenced case concerning violations of Sec. 6-32 and 6-34 of the City Code concerning a ‘Dangerous Building’ or ‘Unfit Dwelling’ at the Property; and

WHEREAS, the Respondent has received a Notice of Ordinance Violation issued on April 8, 2022 in the above-referenced case concerning violations of Sec. 6-6 and 101-34 of the City Code and Land Development Regulations concerning work performed without a valid permit at the Property; and

WHEREAS, Respondent wishes to waive their right to a hearing to contest these violations and desires to resolve the above-referenced case by entering into this Stipulation; and

WHEREAS, the Respondent agrees that the Property is currently in violation of the following sections of the City of Key Colony Beach Code of Ordinances:

- Section 6-32(c): *Dangerous Building* - buildings which are dangerous due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering the building unsafe, unsanitary or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the City.
- Section 6-6(1)(b): *Building Permit Required* – valid building permit must be obtained for construction, alteration, or major structural repair of any buildings.

WHEREAS, the Respondent agrees to cure the Violations set forth above by completing the structural repairs detailed in the Engineering Report of William Campbell, P.E. dated March 17, 2022 (the “Engineering Report”), attached hereto as Exhibit A, and removing all work performed under Building Permit No. 11932, revoked by City Building Official Gerard Roussin on or about March 24, 2022; and

WHEREAS, the Respondent understands and agrees that should it fail to cure the Violations within the timeframes set forth by this Stipulation, the City will assess a daily accruing fine in the amount of \$250.00 per day against the Property for each violation which remains uncured after expiration of any timeframes set forth herein; and

WHEREAS, Respondent understands and agrees that any fines that may accrue on the Property pursuant to the terms of this Stipulation shall apply retroactively from March 25, 2022, and shall continue to accrue until the Property is brought into compliance with the applicable provisions of the City’s Code of Ordinances/Land Development Regulations as set forth herein; and

WHEREAS, Respondent understands and agrees that this Stipulation shall be recorded in the Public Records of Monroe County, Florida, and that any fines that may accrue pursuant to the terms of this Stipulation shall constitute a lien against the Property; and

WHEREAS, to avoid the additional burden and costs associated with contesting the matter before the City of Key Colony Beach Code Enforcement Board, both Parties wish to enter into this Stipulation as an alternate resolution of the Violations discussed herein; and

WHEREAS, the City agrees to postpone both the enforcement proceeding and the accrued fines to be levied against Respondent, in order to allow time for the Violations to be cured and work on the Property to be completed as set forth herein; and

NOW THEREFORE, as a complete settlement of differences and disputes between the Parties, the Parties hereby agree and respectively promise as follows:

I. Responsibilities of the RESPONDENT. Upon the execution of this Stipulation, the RESPONDENT agrees to the following:

A. **Dangerous Building Violation**

i. **Building Shoring**

1. Within ten (10) calendar days of execution of this Stipulation, Respondent shall submit to the City Building Department an application for building permit to complete the concrete shoring repairs detailed by the Engineering Report.
2. Within ten (10) calendar days of issuance of a building permit by the City, Respondent shall complete all shoring work detailed by the Engineering Report, including but not limited to the installation of 'post shoring' as detailed on Page 3 of the Engineering Report (the "Shoring Work").
3. Within forty-eight (48) hours of completion of Shoring Work, Respondent shall permit the City to inspect the Shoring Work. No other work on the Property,

whether or not detailed in this Stipulation, shall commence until after the City has approved the Shoring Work.

ii. Spalling Work

1. Within ten (10) calendar days of execution of this Stipulation, Respondent shall submit to the City Building Department an application for building permit to complete the concrete spalling repairs detailed in the Engineering Report.
2. Within thirty (30) calendar days of the issuance of a building permit by the City, Respondent shall complete all spalling repair work detailed by the Engineering Report, including but not limited to those spalling repairs detailed on Page 3 and 4 of the Engineering Report (the "Spalling Work").
3. Within forty-eight (48) hours of completing of the Spalling Work, Respondent shall permit the City to inspect the Spalling Work. With the exception of any work required by Section I(A) of this Stipulation, no other work on the Property, whether or not detailed in this Stipulation, shall commence until after the City has approved the Spalling Work.

iii. Tie-Beam

1. Within fifteen (15) calendar days of execution of this Stipulation, Respondent shall obtain and submit to the City, at its sole expense, a report from a duly-licensed and registered engineer offering an opinion as to whether structural integrity was adversely affected by removal of the first-floor tie beam running north to south on western side of the structure (the "Tie Beam"). Respondent explicitly acknowledges and agrees that they understand which tie beam at the Property is referenced by this provision.

2. Respondent agrees that the Tie Beam shall be replaced within thirty (30) calendar days of execution of this Stipulation. Respondent further agrees that City shall be permitted to inspect the replaced Tie Beam within forty-eight (48) hours of its replacement pursuant to this Section. With the exception of work required by Section I(A) of this Stipulation, no other work at the Property shall commence until after the replaced Tie Beam has been approved by the City. The terms of this subsection shall apply only if the engineering report required by Section I(A)(iii)(1) of this Stipulation shows that structural integrity of the Property was adversely affected by removal of the Tie Beam.

iv. Inspections

1. Respondent agrees that all times during completion of the work under Section I(A) of this Stipulation, the Property shall remain open for inspection by the City.

B. Work Without Valid Permit

i. Removal of Work

1. Within ten (10) calendar days of execution of this Stipulation, Respondent shall submit to the City Building Department an application for building permit to remove any and all work performed under Building Permit No. 11932, including but not limited to (1) removal of all interior window and door blocking; (2) removal of 'epoxied-in' rebar installed in interior window and door blocking. Respondent explicitly acknowledges and agrees that this provision does not provide an exhaustive list of work performed under Building Permit No. 11932, and that City may subsequently provide Respondent with an itemized list of work that must be removed prior to the issuance of a permit pursuant to this subsection.

2. Within thirty (30) calendar days of the issuance of a building permit by the City, Respondent shall complete all work provided for under the building permit issued by the City pursuant to Section I(B)(i)(1) of this Stipulation (the "Removed Work").
3. Within forty-eight (48) hours of completion of the Removed Work, Respondent shall permit City to inspect the Removed Work. With the exception of any work provided for by Section I(A) of this Stipulation, no other work shall commence on the Property until the City has approved the Removed Work.

ii. Renovation Permit

1. Within ten (10) calendar days of the execution of this Agreement, Respondent shall submit to the City Building Department an application for building permit covering any additional proposed repair or renovation of the Property (the "Renovation Work"). In accordance with Section 6-7(d) of the City Code, Respondent shall complete all Renovation Work under within fifteen (15) months from commencement of construction unless Respondent has obtained a continuation of the applicable permit(s) pursuant to the City Code. The City acknowledges and agrees that no violation of this Stipulation shall occur if Respondent is unable to commence Renovation Work because of the City's inability to issue a permit, due to substantial improvement, substantial damage, or any other issue entirely outside of Respondent's control.
2. For inspections required by prosecution of work under the Renovation Permit, Respondent shall be permitted to utilize a private provider as defined by Florida Statute § 553.791(1)(n) in accordance with all requirements of the City Code and Florida Building Code. At least forty-eight (48) hour prior to any inspection of

work completed under the Renovation Permit by a private provider, Respondent shall provide the City with notice and shall permit the City to attend said inspection at the City's sole discretion.

C. General Conditions

- i. In the event Respondent fails to comply with the terms and conditions of this Stipulation and the timeframes for compliance set forth herein, a daily fine in the amount of \$250.00 per day shall be assessed against the Property, per violation (a maximum of \$500.00 per day), until such time as Respondent has complied with the terms of this Stipulation. This Stipulation shall be recorded in the Public Records of Monroe County, and shall constitute a lien against the Property in accordance with Sec. 1-10 of the City Code and Florida Statute § 162.09. If Respondent fully complies with all terms of this Stipulation, no fines shall be assessed against the Property and the City shall file a Notice of Lien Satisfaction in the Public Records of Monroe County in a form mutually acceptable to the parties.
- ii. Due to the current dangerous condition of the Property, Respondent acknowledges that time is of the essence with respect to all work to be completed under Section I(A) of this Stipulation. In the event Respondent fails to complete the Shoring Work within twenty (20) calendar days of the issuance of a permit for that work by the City, Respondent agrees that the City shall be permitted to retain the services of a qualified contractor to complete that work. In the event Respondent fails to complete the Spalling Work within forty-five (45) calendar days of the issuance of a permit for that work by the City, Respondent agrees that the City shall be permitted to retain the services of a qualified contractor to complete that work. In the event City is required to retain the services of a contractor to complete the Shoring or Spalling

Work as set forth in this subsection, Respondent expressly acknowledges and agrees that a fine of no more than two hundred thousand dollars and zero cents (\$200,000.00) shall be assessed and shall constitute a lien against the Property in accordance with Sec. 1-10 of the City Code and Florida Statute § 162.09. In no event shall the City assess a fine pursuant to this subsection in excess of its actual costs in retaining the services of a contractor to complete the Shoring Work and Spalling Work.

- iii. All applications for building permits required by this Stipulation shall comply with the requirements of Sec. 6-6(4), and shall further contain itemized contracts duly-executed by the contractor of record, copies of all required licenses for each contractor or subcontractor who shall perform work under said permit, and copies of all required liability insurances for each contractor of record, including but not limited to general liability and worker's compensation.

II. Responsibilities of the CITY. Upon the execution of this Agreement, the CITY agrees to the following:

- a. The City shall postpone the code enforcement hearing currently scheduled before the City of Key Colony Beach Code Enforcement Board on April 13, 2022.
- b. The City shall act with diligence to timely and expeditiously process all building permit applications required by this Stipulation, to conduct inspections of the Property and to work with Respondent to ensure that the Property is brought into compliance in accordance with the terms and conditions of this Stipulation and the applicable

provisions of the City's Code of Ordinances/Land Development Regulations.

III. Binding Agreement. This Agreement shall be binding on the Parties hereto, and the Parties agree to execute any and all documents necessary to ratify and confirm the terms and provisions of this Agreement.

IV. No Presumption. This Agreement shall be deemed drafted by all Parties and there shall be no presumption against any party relating to the drafting of said Agreement and the language used herein.

V. Laws Governing this Agreement. The laws of the State of Florida shall govern this Agreement and its enforcement.

VI. Remedies. In the event Respondent fails to comply with conditions of this Agreement, the City shall not release the Code Enforcement lien recorded against the Property.

VII. Authority. The Parties signing this Agreement represent and warrant that they have full and complete legal and binding authority to enter into said Agreement.

VIII. Terms. The terms of this Agreement shall be binding on the Parties, their legal representatives, successors, and assigns, and shall supersede all prior discussions and negotiations among Parties concerning settlement. This Agreement represents the entire Agreement of the Parties and shall not be modified except by a writing signed by all of the Parties.

IX. Modification. The terms of this Agreement may be modified if mutually agreed upon in writing by all Parties, with no third consent required.

X. Counterparts. This Agreement may be signed in counterparts, and the signature counterparts of the Parties or their authorized representative shall be treated as the same as if said Parties or their authorized representatives had signed the Agreement. A facsimile signature shall be deemed the equivalent of an original signature of a party or its authorized representative.

XI. Force Majeure. A party is not liable for failure to perform the party's obligations in a timely manner if such failure is as a result of Acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), revolution, insurrection, military or usurped power or confiscation, terrorist activities, embargo, labor dispute, strike, lockout or interruption or failure of electricity or telephone service for reasons beyond the party's control.

XII. Notice. Notices shall be sent via Certified Mail, Hand Delivery or Federal Express as Follows:

As to Respondent: China Beach USA, LLC
 c/o Nikol Hazan
 18851 NEW 29th Ave
 Aventura, FL 33180

As to City: Stacy E. Stahl, Code Officer
 City of Key Colony Beach
 P.O. Box 510141
 Key Colony Beach, Florida 33051

XIII. Execution. This Agreement is deemed executed by the Parties as of the date stated at the beginning of the Agreement.

XIV. Final Agreement. This Agreement shall serve to supersede any prior settlement between the Parties on the same matter.

WHEREFORE, the Parties have read, understood, and agreed to the terms of this Agreement and their signatures below bind themselves, their heirs, distributed, legatees, assigns, and any other successors in interest.

IN WITNESS WHEREOF the undersigned Parties have executed this Agreement on the date indicated below.

On behalf of the City of Key Colony Beach:

BEFORE ME, the undersigned authority, personally appeared CITY ADMINISTRATOR DAVID TURNER, who, being first duly sworn, deposes and says that he/she has read the foregoing, and that the same is true and correct.

SWORN TO AND SUBSCRIBED before me this 12TH day of APRIL, 2022.



AFFIANT'S SIGNATURE

DAVID TURNER
AFFIANT (PRINT NAME)

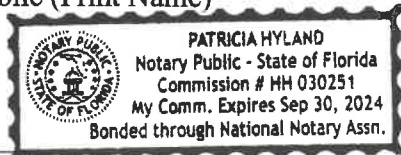
Patricia Hyland
Notary Public's Signature

PATRICIA HYLAND
Notary Public (Print Name)

My Commission Expires: 9/30/24

Patricia Hyland

Print, type or stamp commissioned name of notary or clerk



Personally known
 Produced identification
Type of identification produced _____

On behalf of the Respondent:

BEFORE ME, the undersigned authority, personally appeared NIKOL HAZAN, o/b/o
China Beach USA, LLC, who, being first duly sworn, deposes and says that he/she has read the
foregoing, and that the same is true and correct.

SWORN TO AND SUBSCRIBED before me this 12th day of
APRIL, 2022



AFFIANT'S SIGNATURE

NIKOL HAZAN

AFFIANT (PRINT NAME)



Notary Public's Signature

CAROL GRECO

Notary Public (Print Name)

My Commission Expires:

Print, type or stamp commissioned name of notary or clerk

____ Personally known

____ Produced identification

Type of identification produced FDL # H250-620-XY-XXX-0

