

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: November 16, 2011

Division: Growth Management

Bulk Item: Yes \_\_\_ No X

Department: Planning & Environmental Resources

Staff Contact Person/Phone #: Christine Hurley – 289-2500  
Joseph Haberman - 289-2532

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**AGENDA ITEM WORDING:** Discussion of the status of the Development Agreement between the County and Key Largo Ocean Resort Co-Op, Inc. (KLOR), and the status of the Major Conditional Use Amendment.

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**ITEM BACKGROUND:**

In August, 2011, staff determined two primary performance criteria had been breached, according to the Development Agreement. As of November 1, 2011, KLOR has provided evidence that they have applied for stormwater, water distribution and fire suppression, and sewer transmission permits. Landscaping and roads have not been applied for, but should proceed following approval of a revision to the Conditional Use. Further KLOR needs to record a restrictive covenant, which staff will be providing as a typical document for recordation.

KLOR submitted a new major deviation to their major conditional use permit on October 11, 2011 and the revision is scheduled for DRC review on November 8, 2011. Planning Commission public hearing is expected to occur on December 1, 2011.

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**PREVIOUS RELEVANT BOCC ACTION:**

In 2006, the County entered into the 7-year Development Agreement with KLOR to comply with a mediated settlement agreement. The Development Agreement provided conceptual approval of a plan to redevelop the site and required KLOR to obtain a major conditional use permit to approve the site plan.

August 17, 2011 – BOCC continued the item to November 16, 2011, meeting in Key Largo

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**CONTRACT/AGREEMENT CHANGES:** n/a

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**STAFF RECOMMENDATIONS:** No action to be taken at this time.

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**TOTAL COST:** \_\_\_\_\_ **INDIRECT COST:** \_\_\_\_\_ **BUDGETED:** Yes \_\_\_ No \_\_\_

**DIFFERENTIAL OF LOCAL PREFERENCE:** \_\_\_\_\_

**COST TO COUNTY:** \_\_\_\_\_ **SOURCE OF FUNDS:** \_\_\_\_\_

**REVENUE PRODUCING:** Yes \_\_\_ No \_\_\_ **AMOUNT PER MONTH** \_\_\_\_\_ **Year** \_\_\_\_\_

**APPROVED BY:** County Atty \_\_\_ OMB/Purchasing \_\_\_ Risk Management \_\_\_

**DOCUMENTATION:** Included X \_\_\_ Not Required \_\_\_

**DISPOSITION:** \_\_\_\_\_

**AGENDA ITEM #** \_\_\_\_\_



ORESTES LOPEZ-RECIO  
A R C H I T E C T  
STATE REG. NO. AR0009350

November 1, 2011

Christine Hurley, Director  
Monroe County Growth Management Division  
2798 Overseas Highway  
Suite 400  
Marathon, Florida 33050

RE: KLOR Infrastructure Permit Status

Dear Christine:

As per our earlier telephone discussion, KLOR has applied for and obtained the following permits:

1. Site demolition permit from Monroe County issued on November 10, 2010
2. South Florida Water Management, Environmental Resource Permit New Construction, issued November 9, 2009, modified on May 25, 2011
3. FDEP Sewer Connection Permit issued on June 27, 2011

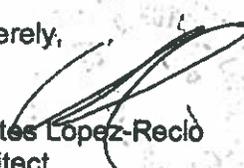
The following permit has been applied for and is pending issuance:  
FKAA Water Main Permit

The remaining permits required by the DA will be issued by The Monroe County Building Department and are subject to the modified site plan approval by the Planning Commission. Once approved by the Planning Commission we will submit to the Monroe County Building Department for permit.

Prior to the BOCC meeting of November 16, 2011, we will submit back-up material for the above referenced.

Please feel free to contact me if you require additional information as KLOR is anxious to get started in order to return to our community as soon as possible.

Sincerely,

  
Orestes Lopez-Recio  
Architect



The Law Offices of Kent Harrison Robbins

August 2, 2011

By Email to [shillinger-bob@monroecounty-fl.gov](mailto:shillinger-bob@monroecounty-fl.gov)

Heather Carruthers, Mayor  
Board of County Commissioners  
Monroe County Attorney's Office  
530 Whitehead Street  
Key West, Florida 33040

Re: Key Largo Ocean Resorts Co-op, Inc., Extension of Duration of Development Agreement.

Dear Mayor Carruthers,

I represent Key Largo Ocean Resorts Co-op, Inc. ("KLOR".)

As you know on January 31, 2006, KLOR and Monroe County entered into a Development Agreement.

The duration of the Development Agreement is 7 years from its effective date. KLOR has complied with the Agreement by removing in excess of 1,000 violations on the property, by removing all non-community structures on the site. On June 5, 2010, a modification to the Site Plan was approved by an overwhelming majority of shareholders ("Modified Site Plan.") The Modified Site Plan affected the internal organization of the site and eliminated all development in the preservation area as well as provided a 40% increase in the open space. It also added parking spaces and reduced the projected cost of infrastructure redevelopment in an amount in excess of \$1,000,000.00.

The Modified Site Plan was scheduled to be heard on a Major Deviation application before the Monroe County Planning Commission for approval. The architect and attorney for KLOR discovered that both parties to the Development Agreement had overlooked that certain land area that was included in the previously approved Site Plan had been deeded to the State of Florida in 1972. As a result, the application for Major Deviation was withdrawn from the Monroe County Planning Board in order to provide KLOR with the time to correct this serious title issue.

Currently, KLOR is exploring its remedies concerning the recovery of the deeded area from the State of Florida. Because there are outstanding questions of whether and when that land was submerged and filled, the appropriate remedy to be sought has not been determined. The representatives of both Monroe County and KLOR have been working together to find a solution to this title issue. In the interim, the existing Site Plan is problematic because it includes land with title issues and has been superseded by the shareholder approved Modified Site Plan which may need to be further modified because of the title issues.

Therefore, KLOR is requesting that the Development Agreement be extended for an additional 2 years and to extend the time to submit permits by 3 years in order to meet all development requirements under the Agreement.

Given that Monroe County has already received the benefit of KLOR's removal of all of the violations on the property and that the property no longer poses a threat to the health, safety and welfare of the citizens of Monroe County, and good cause having been shown, the extension of time requested herein should be granted.

In the future, please address all communication about the Development Agreement to me and to Gicela Pino, President of KLOR.

Sincerely,

A handwritten signature in black ink, appearing to read "Kent H. Robbins", written over a horizontal line.

Kent Harrison Robbins

cc: County Administrator  
1100 Simonton Street, Rm. 2-205  
Key West, Florida 33040



# Florida Department of Environmental Protection

Marjory Stoneman Douglas Building  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

Rick Scott  
Governor

Jennifer Carroll  
Lt. Governor

Herschel T. Vinyard Jr.  
Secretary

July 28, 2011

Mr. Jim Muller  
Muller and Associates, Inc.  
3808 Sally Lane  
Tallahassee Florida 32312-1019

RECEIVED  
AUG 01 2011  
MONROE COUNTY ATTORNEY

Re: Key Largo Ocean Resorts; Monroe County

Dear Mr. Muller:

This is in response to inquiry to the Division of State Lands regarding the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida's extent of ownership in the uplands and submerged lands at the Key Largo Ocean Resort. The subject lands are located in Section 13, Township 62 South, Range 38 East, Monroe County.

Our records indicate that portions of the submerged lands previously conveyed by Board of Trustees Deed Nos. 24107, 24151, and 21847 were reconveyed to the state by Deed recorded in Book 503 Page 22, Monroe County Official Records. Subsequent to this reconveyance it appears that some additional filling along the shoreline occurred. However, historic aerial evidence indicates the fill occurred prior to July 1, 1975. Therefore, it appears that the uplands located within the boundaries of the reconveyed submerged lands may not be state owned, and would qualify for a Certificate from the Board of Trustees per Section 253.12(9)&(10), Florida Statutes if all additional criteria are met. You may contact Jody Miller at (850)245-2802 for further information about the process to apply for a certificate per said statute.

Thank you again for your inquiry. If this office can be of any further assistance regarding this determination, please address your questions to

Mr. Jim Muller  
July 28, 2011  
Page two

Melanie Knapp, Government Operations Consultant II, mail station No. 108 at  
the above letterhead address, or by telephone at (850) 245-2788.

Sincerely,



*lv*  
Terry E. Wilkinson, Chief  
Bureau of Survey and Mapping  
Division of State Lands

TEW/mjk  
enclosures

cc: Jody Miller, DEP/BSM  
Gus Rios, SLERP/Marathon  
Mike Long, DEP/DSL  
Jesus F. Bujan, PA  
Odalys Sierra, Luis A. Gonzalez and Onidia Gonzalez  
Kent Harrison Robbins, Atty  
Robert B. Shillinger, Monroe Co, Attorney's Office  
John Wolfe, Monroe County Planning Commission

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# Florida Department of Environmental Protection

Marjory Stoneman Douglas Building  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

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Lt. Governor

Herschel T. Vinyard Jr.  
Secretary

July 28, 2011

Odalys Sierra, Luis A. Gonzalez and Onidia Gonzalez  
5751 SW 59<sup>th</sup> Place  
South Miami, Florida 33143

Re: Key Largo Ocean Resorts; Monroe County

Dear Odalys Sierra, Luis A. Gonzalez and Onidia Gonzalez:

This is in response to your letter dated July 11, 2011 that was copied to the State of Florida Board of Trustees of the Internal Improvement Trust Fund regarding the ownership of uplands and submerged lands at the Key Largo Ocean Resort. The subject lands are located in Section 13, Township 62 South, Range 38 East, Monroe County.

Our records indicate that portions of the submerged lands previously conveyed by Board of Trustees of the Internal Improvement Trust Fund Deed Nos. 24107, 24151, and 21847 were reconveyed to the Board of Trustees by Deed recorded in Book 503 Page 22, Monroe County Official Records. Subsequent to this reconveyance it appears that some additional filling along the shoreline occurred. However, historic aerial evidence indicates the fill occurred prior to July 1, 1975. Therefore, it appears that the uplands located within the boundaries of the reconveyed submerged lands may not be state owned, and would qualify for a Certificate from the Board of Trustees per Section 253.12(9)&(10), Florida Statutes if all additional criteria are met. You may contact Jody Miller at (850)245-2802 for further information about the process to apply for a certificate per said statute.

Thank you again for your inquiry. If this office can be of any further assistance regarding this determination, please address your questions to

Sierra, Gonzalez and Gonzalez  
July 28, 2011  
Page two

Melanie Knapp, Government Operations Consultant II, mail station No. 108 at  
the above letterhead address, or by telephone at (850) 245-2788.

Sincerely,

  
w Terry E. Wilkinson, Chief  
Bureau of Survey and Mapping  
Division of State Lands

TEW/mjk  
enclosures

cc: Jody Miller, DEP/BSM  
Gus Rios, SLERP/Marathon  
Mike Long, DEP/DSL  
Jesus F. Bujan, PA  
Jim Muller, Muller and Associates, Inc.  
Kent Harrison Robbins, Atty  
Robert B. Shillinger, Monroe Co, Attorney's Office  
John Wolfe, Monroe County Planning Commission

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## Florida Department of Environmental Protection

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Tallahassee, Florida 32399-3000

Rick Scott  
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Lt. Governor

Herschel T. Vinyard Jr.  
Secretary

July 28, 2011

Mr. Jesus F. Bujan, PA  
Fleitas, Bujan & Fleitas, LLP  
Ocean Bank Building  
782 NW LeJeune Road, Suite 530  
Miami, Florida 33126

Re: Key Largo Ocean Resorts; Monroe County

Dear Mr. Bujan:

Thank you for your recent inquiry requesting a determination of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida's extent of ownership in the uplands and submerged lands at the Key Largo Ocean Resort. The subject lands are located in Section 13, Township 62 South, Range 38 East, Monroe County.

Our records indicate that portions of the submerged lands previously conveyed by Board of Trustees Deed Nos. 24107, 24151, and 21847 were reconveyed to the state by Deed recorded in Book 503 Page 22, Monroe County Official Records. Subsequent to this reconveyance it appears that some additional filling along the shoreline occurred. However, historic aerial evidence indicates the fill occurred prior to July 1, 1975. Therefore, it appears that the uplands located within the boundaries of the reconveyed submerged lands may not be state owned, and would qualify for a Certificate from the Board of Trustees per Section 253.12(9)&(10), Florida Statutes if all additional criteria are met. You may contact Jody Miller at (850)245-2802 for further information about the process to apply for a certificate per said statute.

Thank you again for your inquiry. If this office can be of any further assistance regarding this determination, please address your questions to

Mr. Jesus Bujan  
July 28, 2011  
Page two

Melanie Knapp, Government Operations Consultant II, mail station No. 108 at  
the above letterhead address, or by telephone at (850) 245-2788.

Sincerely,



*jr*  
Terry E. Wilkinson, Chief  
Bureau of Survey and Mapping  
Division of State Lands

TEW/mjk  
enclosures

cc: Jody Miller, DEP/BSM  
Gus Rios, SLERP/Marathon  
Mike Long, DEP/DSL  
Jim Muller, Muller and Associates  
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Kent Harrison Robbins, Atty  
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John Wolfe, Monroe County Planning Commission

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# LOCATION OF SUBMERGED LANDS DEEDED TO TIIF KEY LARGO, FLORIDA

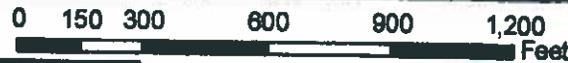


62S38E13

AREA OF SUBMERGED LANDS  
DEEDED TO TIIF FROM  
BORN MARINE GROUP INC.  
FEBRUARY 28, 1972

POINT OF COMMENCEMENT OF PARCELS  
LOCATED BY FDOT RW MAPS  
80080-2818-17-34  
80080-2818-18-34

AREA OF SUBMERGED LANDS  
DEEDED TO TIIF FROM  
BORN MARINE GROUP INC.  
FEBRUARY 28, 1972



**Legend**

- Property Lines
- D MID-108851
- D MID-129981
- D MID-131803
- D MID-128241

Information from:  
 D SL Board of Trustees Land Data System  
 D SL GIS Land Records Mapping System  
 B IS GIS Enterprise Data

**FOR ILLUSTRATIVE  
AND  
INFORMATIONAL  
PURPOSES  
ONLY**

Prepared by Mike McSweeney  
July 8, 2011

Florida Department of Environmental Protection  
 Division of State Lands  
 Bureau of Survey and Mapping  
 GIS and Land Records Mapping Section  
 Rm 215 Carr Building  
 3800 Commonwealth Blvd.  
 Tallahassee, FL 32380  
 Phone 850-245-2588



Tody's digital  
overlay



Rock Harbor  
Map. Grid # 70  
1972-73



2/5/1972