

SOUTHERN SKYWAY PROPERTY, INC.,
a Florida Corporation, and MARBELLA
MARINA, INC., a Florida Corporation,

Plaintiffs,

v.

BRICKELL BAY ENTERTAINMENT
AND DEVELOPMENT COMPANY,
a Florida Corporation, JUAN A. BARROSO PINO,
MILDRED GIDNEY, IRIS RADERMAN,
JENNIDER WEINER, DELSIE LIPTON,
FELICE LIPTON, IRIS OSBORN, JAMES REISS,
MICHAEL BARATZ, HARVEY A. SHULMAN,
BARRY KENDALL, GAIL LANE CORNBLUM,
JOHN ALDERMAN, RICHARD JACOBS,
LIPTON, LIPTON AND RADERMAN,
BERMAN MORTGAGE GROUP,
a Florida Corporation, YALE SAMOLE and
SUSAN SAMOLE,

Defendants.

MOTION FOR ISSUANCE OF WRIT OF POSSESSION

COMES NOW the Plaintiff, SOUTHERN SKYWAY PROPERTY, INC. ("SOUTHERN"), by and through its undersigned counsel, and pursuant to the Florida Rules of Civil Procedure, hereby files this Motion for Issuance of Writ of Possession, and as grounds therefor, states as follows:

1. On May 26, 2011, the Clerk of the Court issued a Certificate of Title to the SOUTHERN after SOUTHERN was the successful bidder at the foreclosure sale in this action. A true and correct copy of Certificate of Title issued to SOUTHERN is attached hereto and incorporated herein as **Exhibit "A."**

2. The Certificate of Title evidences that the following property and secured rights, which were assigned to BRICKELL BAY pursuant to the Assignment and Consent to Transfer

and secured by the Leasehold Mortgage and Security Agreement ("Mortgage") entered into between the parties were sold to SOUTHERN:

- a. the subject marina located in Miami-Dade County, Florida, and more particularly described as:

A parcel of sovereignty submerged land in Section 38, Township 54 South, Range 41 East, in Biscayne Bay, Miami Dade County, containing 57,725 square feet, more or less.

Folio Number: 01 02100301051

(the "Marina");

- b. all of Defendant's, BRICKELL BAY ENTERTAINMENT AND DEVELOPMENT COMPANY ("BRICKELL BAY"), leasehold rights and interests under and in accordance with the State of Florida Sovereignty Submerged Lands Lease # 130000726 in regards to those submerged lands in Biscayne Bay, in Section 38, Township 54 South, Range 41 East, in the City of Miami, Miami-Dade County, Florida;
- c. all of BRICKELL BAY'S use rights in and to the Marina;
- d. all of BRICKELL BAY'S rights and interests in any and all dock slip leases and/or licenses for the use and enjoyment of docks within the Marina, including all security and electricity deposits thereunder;
- e. all personal property and fixtures relating to, used in connection with or arising from the operation of the Marina; and
- f. BRICKELL BAY'S limited rights as Developer under the Declaration of Condominium of The Four Ambassadors, A Condominium, recorded in Official Records Book 14531, at Page 1404, of the Public Records of Miami-Dade County, Florida, and all amendments thereto, and as Declarant under the Declaration of Covenants, Restrictions and Easements for the Four Ambassadors Master Association, Inc., recorded in Official Records Book 11121, at Page 1502, of the Public Records of Miami-Dade County, Florida, and all amendments thereto, solely relating to the Marina; and
- g. all of BRICKELL BAY'S interests and/or rights in and to all of the property, appurtenances, and rights described in the Mortgage, and granted to BRICKELL BAY under same;

(all such above rights collectively referred to hereinafter as the "Secured Rights").

3. The Marina that was purchased by SOUTHERN is still occupied by the former owner, the Defendant, BRICKELL BAY, or by their tenants/other persons, without the consent of SOUTHERN.

4. On or about June 8, 2011, counsel for SOUTHERN sent correspondence to BRICKELL BAY demanding that BRICKELL BAY vacate the Marina and deliver possession of the Marina and all personal property, together with any records in BRICKELL BAY'S possession relating to the Marina and Secured Right, to SOUTHERN by Friday June 10, 2011. To date, BRICKELL BAY has failed and/or refused to comply with SOUTHERN'S demand. A true and correct copy of SOUTHERN'S counsel's correspondence is attached hereto and incorporated herein as **Exhibit "B."**

5. The Final Judgment that was entered in this action on July 2, 2011, provided, in pertinent part, that "Jurisdiction of this action [was] retained [by the Court] to enter further orders as are proper, including, without limitation, writs of assistance/possession..."


WHEREFORE, the Plaintiff, SOUTHERN SKYWAY PROPERTY, INC., respectfully requests that this Court enter an Order directing the Clerk to issue a Writ of Possession so that the occupants of the property be evicted by the Sheriff.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via U.S. Mail and electronic mail this 04 day of June, 2011, to: See attached Service List.

Respectfully submitted,

SIEGFRIED, RIVERA, LERNER,
DE LA TORRE & SOBEL, P.A.
Attorneys for Plaintiff
201 Alhambra Circle, Suite 1102
Coral Gables, Florida 33134
Telephone: (305) 442-3334
Facsimile: (305) 443-3292
Email: hdelatorre@siegfriedlaw.com

By: 

HELIO DE LA TORRE, ESQ.
Florida Bar Number: 307130
STEPHANIE M. CHAISSAN, ESQ.
Florida Bar Number: 60813

SERVICE LIST

John A. Barroso

*Brickell Bay Entertainment
and Development Company*
801 Brickell Bay Drive, No. 12
Miami, Florida 33131
Email: abcupusa@bellsouth.net

and

11930 N. Bayshore Drive, Apt. 708
Miami, FL 33181

Daniel Jonas, Esq.

Law Offices of Daniel E. Jonas, P.A.
Attorney for Yale and Susan Samole
300 71st Street, Suite 630
Miami Beach, Florida 33141
Facsimile: 305-866-7063
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James D. Gassenheimer, Esq.

Berger Singerman
Attorney for Mildred Gidney, et al.
200 South Biscayne Boulevard, Suite 1000
Miami, Florida 33131
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Email: JGassenheimer@bergersingerman.com

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

CFN 2011R0362529
OR Bk 27709 Pgs 4773 - 4774 (2pgs)
RECORDED 06/03/2011 12:09:45
DEED DDC TAX 0.60
SURTAX 0.45
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

SOUTHERN SKYWAY PROPERTY INC ; MARBELLA
MARINA INC
Plaintiff(s) / Petitioner(s)
VS.
BRICKEL BAY ENTERTAINMENT & ETC , et al.
Defendant(s) / Respondents(s)

GENERAL JURISDICTION DIVISION
Case No: 07007524CA01
Section: 09
Doc Stamps: \$0.60
Surtax: \$0.45
Consideration: \$100.00

CERTIFICATE OF TITLE

The undersigned clerk of the court certifies that a Certificate of Sale was executed and filed in this action on April 21, 2011, for the property described herein and that no objections to the sale have been filed within the time allowed for filing objections.

The following property in Miami-Dade County, Florida:

- SEE ATTACHMENT -

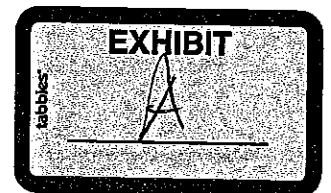
was sold to:

SOUTHERN SKYWAY PROPERTY INC
C/O SIEGFRIED, RIVERA, LERNER DE LA TORRE & SOBEL, P.A.
4TH FLOOR 2600 N M MILITARY TRIAL
BOCA RATON , FL, 33431

WITNESS my hand and the seal of this court on May 26, 2011 .



Harvey Ruvin, Clerk of Courts
Miami-Dade County, Florida



CERTIFICATE OF TITLE

Case No: 07007524CA01

A parcel of sovereignty submerged land in Section 38, Township 54 South, Range 41 East, in Biscayne Bay, Miami Dade County, containing 57,725 square feet, more or less.

Folio Number: 01 02100301051.

all of BRICKELL BAY'S leasehold rights and interests under and in accordance with the State of Florida Sovereignty Submerged Lands Lease # 130000726 in regards to those submerged lands in Biscayne Bay, in Section 38, Township 54 South, Range 41 East, in the City of Miami, Miami-Dade County, Florida;

all of BRICKELL BAY'S use rights in and to the Marina;

all of BRICKELL BAY'S rights and interests in any and all dock slip leases and/or licenses for the use and enjoyment of docks within the Marina, including all security and electricity deposits thereunder;

all personal property and fixtures relating to, used in connection with or arising from the operation of the Marina; and

BRICKELL BAY'S limited rights as Developer under the Declaration of Condominium of The Four Ambassadors, A Condominium, recorded in Official Records Book 14531, at Page 1404, of the Public Records of Miami-Dade County, Florida, and all amendments thereto, and as Declarant under the Declaration of Covenants, Restrictions and Easements for the Four Ambassadors Master Association, Inc., recorded in Official Records Book 11121, at Page 1502, of the Public Records of Miami-Dade County, Florida, and all amendments thereto, solely relating to the Marina; and

all of BRICKELL BAY'S interests and/or rights in and to all of the property, appurtenances, and rights described in the Mortgage and granted to BRICKELL BAY under same.

201 ALHAMBRA CIRCLE | SUITE 1102 | CORAL GABLES, FLORIDA 33134
 MIAMI-DADE 305.442.3334 | FAX 305.443.3292 | TOLL FREE 800.737.1390

STEVEN M. SIEGFRIED

OSCAR R. RIVERA

LISA A. LERNER

HELIO DE LA TORRE

STUART H. SOBEL

MARIA VICTORIA ARIAS

ELISABETH D. KOZLOW

MICHAEL J. KURZMAN

JOSEPH A. MILES

ROBERTO C. BLANCH

VIVIEN T. MONTZ

JEFFREY A. REMBAUM

JEFFREY S. BERLOWITZ

HDELATORRE@SIEGFRIEDLAW.COM

REPLY TO CORAL GABLES OFFICE

June 8, 2011

VIA EMAIL: ABCUPUSA@BELLSOUTH.NET
AND CERTIFIED MAIL #7009 3410 0002 1776 0722
RETURN RECEIPT REQUESTED

Brickell Bay Entertainment
 and Development Company
 c/o John A. Barroso
 801 Brickell Bay Drive, No. 12
 Miami, Florida 33131

Brickell Bay Entertainment
 and Development Company
 c/o John A. Barroso
 11930 N. Bayshore Drive, Apt. 708
 Miami, Florida 33181

**RE: SOUTHERN SKYWAY PROPERTY, INC. V. BRICKELL BAY ENTERTAINMENT AND
 DEVELOPMENT COMPANY, et al. - CASE NO.: 07-07524 CA 09**

Dear Mr. Barroso:

As you are aware, the undersigned law firm represents Southern Skyway Property, Inc. ("Southern") in the above-referenced matter. In furtherance of the Court's Order overruling Brickell Bay Entertainment and Development Company's ("BBEDC") Objections to the Foreclosure Sale and Certificate of Title Pending Appeal to the Third District Court, the Clerk of Court issued the Certificate of Title to the subject marina in this matter on May 26, 2011. As a result, BBEDC has been foreclosed of all estate or claim in the marina and of the rights assigned to BBEDC pursuant to the Assignment and Consent to Transfer and secured by the Leasehold Mortgage and Security Agreement entered into between the parties (the "Secured Rights"). Southern is entitled to immediate possession of the marina.

Be advised that Southern is in the process of preparing and filing the required Transfer Statement of the Secured Rights and all personal property located within the marina. BBEDC has no further rights in the Secured Rights or any such personal property, and same must be delivered to Southern.

Accordingly, this correspondence shall serve as Southern's **FINAL DEMAND** that BBEDC, and any of its members, agents, representatives, etc., vacate the marina and deliver possession of same, together with any personal property located therein, to Southern by no later than **Friday, June 10, 2011**. Also at that time, BBEDC must turn over to Southern or the undersigned all records in its possession, custody or control pertaining or related to the marina and the Secured Rights, including all rent rolls, wet slip certifications and any documents concerning any taxes or fees paid or due on the marina. If BBEDC should fail and/or refuse to comply with Southern's

HELENE J. BROWN

STEPHANIE M. CHAISSAN

B. MICHAEL CLARK, JR.

VINCENT B. FLOR

TIFFANY M. HURWITZ

SALVADOR A. JURADO, JR.

GEORG KETELHOHN

RYAN LAMCHICK

IVETTE MACHADO

LAURA M. MANNING-HUDSON

PETER MELTZER

JONATHAN M. MOFSKY

FERN F. MUSSELWHITE

JASON M. RODGERS-DA CRUZ

CARIDAD RUSCONI

NICHOLAS D. SIEGFRIED

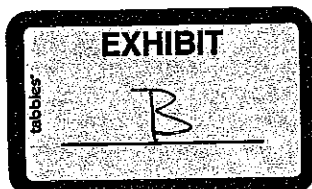
L. CHERE TRIGG

OF COUNSEL

H. HUGH McCONNELL, P.A.

ROBERT E. DADY P.A. *

*also admitted in New York



above-referenced demand, Southern shall be compelled to file a Motion for Writ of Possession to remove BBEDC from possession. In such event, Southern shall seek to hold BBEDC liable for its attorneys' fees and costs incurred in filing such Motion and serving such Writ.

PLEASE GOVERN YOURSELF ACCORDINGLY.

Yours cordially,

SIEGFRIED, RIVERA, LERNER,
DE LA TORRE & SOBÉL, P.A.



Helio De La Torre

HDT/smc

cc: Gary Goldbloom, via email
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