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Executive Summary: Gate Access, Traffic Control, and Roadway Safety

Board of Governors
Miami Beach Association
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Background

The Board is undertaking a comprehensive review of gate access, traffic control, and roadway safety across the Association. As part of this review, the Board is examining historical agreements and practices affecting Association roads. There are legal considerations surrounding Pond Road, pedestrian safety on all our roads, and how best to accommodate emergency vehicle access, while, at the same time, balancing resident access with community privacy and seasonal traffic. This Executive Summary sets out the Board's general authority and intended framework for gate policy going forward. Specific factual and legal questions concerning Pond Road access remain under review by counsel.

Purpose

The MBA is a Connecticut-chartered Special Tax District with the responsibility of maintaining the safety, privacy, and orderly use of its roads, streets, avenues, and public areas for the benefit of its members and residents.

Consistent with its Charter authority, the Board of Directors has the power to adopt rules, regulations, and bylaws necessary to promote public safety, regulate traffic, preserve the quiet enjoyment of the community, and control access to Association roads when unrestricted use may become dangerous, inconvenient, or inconsistent with the interests of the Association. In brief, the Board has the authority to:

- Provide access to individuals and entities as we are legally required to.
- Provide access to MBA members.
- Provide secure gating during the 12 week summer (or seasonal duration determined by the BOG) for safety of pedestrians.
- Provide access to non-MBA members subject to the discretion of the MBA BOG.

Existing Gate System

The Association currently maintains a system of perimeter and internal gates designed to control traffic flow, preserve the private character of the community, and enhance public safety.

Perimeter Gates

Five perimeter gates are generally closed during the summer season, from Memorial Day through Labor Day, six days per week (note: gates are open on Monday's only during the summer season to allow waste and recycle pickup). These gates are located at:

- Intersection of Hawk's Nest Road and Liberty Street.
- Intersection of Hawk's Nest Road and Clifton Street.
- Washington Avenue.
- Columbus Avenue.
- Biscayne Boulevard.
- Corsino Avenue.
- Miami Avenue.
- Intersection of Liberty St and Alleyway #3.

The purpose of these gates is to limit unnecessary through traffic and maintain the privacy and security of the Association during periods of increased seasonal activity.

Internal Gates

The Association also maintains internal access-control points, including:

- Liberty Street at Washington Avenue.
- Liberty Street at Columbus Avenue.
- Corsino Avenue at Pond Road.

The gate located at Corsino Avenue and Pond Road is currently closed at 5:00 p.m. and reopened at 9:00 a.m.

Pond Road Access Control

A half-gate is currently located on Pond Road, where access is monitored by a security guard. This location serves as a controlled entry point for authorized traffic while allowing the Association to monitor and regulate access to its private roads. This was part of the 1997 agreement mentioned in the background section.

Authority of the Board

Under the Association Charter, the Board of Directors has the authority to:

- Enforce applicable laws, ordinances, regulations, and Association bylaws.
- Adopt rules and policies necessary for the safety and welfare of Association members.
- Regulate traffic and travel over roads, streets, and avenues within the Association.
- Restrict, regulate, or control access to Association roads whenever unrestricted use may become dangerous, unsafe, disruptive, or inconvenient.
- Preserve the quiet enjoyment of the community and keep roads and public places free from excessive noise and disturbances.
- Determine when gates should be opened, closed, installed, relocated, modified, or removed in furtherance of the Association's objectives.

Accordingly, the Board may take reasonable actions to control vehicular and pedestrian access whenever such actions are deemed necessary to protect public safety, preserve community privacy, reduce traffic congestion, or maintain the orderly operation of Association property.

Definition of Gates

For purposes of Association policies and regulations, the term "gate" shall include any physical barrier, whether temporary or permanent, used to regulate or control access to Association roads, streets, avenues, or public areas, including but not limited to:

- Manual gates.
- Swing gates.
- Sliding gates.
- Electronic gates.
- Automated gates.
- Solar-powered gates.

- Electrically powered gates.
- Security-controlled access barriers.
- Vehicular access-control devices.

This definition is intended to provide the Board with flexibility to utilize evolving technologies and access-control methods as circumstances require.

Future Access-Control Authority

To fulfill its Charter obligations, the Board may from time to time determine that additional gates, barriers, access-control devices, or traffic-control measures are necessary. Likewise, the Board may determine that existing gates should be modified, relocated, or removed based upon changing safety conditions, traffic patterns, operational requirements, legal considerations, or the best interests of the Association.

Nothing in current gate placements shall be construed as limiting the Board's authority to implement future access-control measures consistent with its Charter powers.

Use of Private Property for Access onto Association Roads

The Board has become aware of circumstances in which property owners may utilize land located outside the Association, including privately owned lots, to gain access to or park vehicles adjacent to Association roads.

Unless a property owner possesses a valid recorded easement, deeded right-of-way, license, or other legally recognized right granting access over Association property, ownership or use of adjacent property does not create a right to enter, exit, park upon, or otherwise utilize Association roads beyond that enjoyed by the general public.

Where a property owner uses land outside the Association to access Association roads without a documented legal right, the Board may:

- Request documentation establishing any claimed access rights.
- Review land records and title documents to determine whether legal access rights exist.
- Regulate or restrict access through gates and other traffic-control measures.
- Enforce applicable Association rules and bylaws.
- Pursue legal remedies where necessary to prevent unauthorized use of Association property or roads.

The Association should seek legal review of any disputed access claim before taking enforcement action to ensure that all decisions are consistent with applicable property and easement law.

Conclusion

The Association's gate system is an important component of its efforts to preserve safety, privacy, and the residential character of the community. The Board's Charter authority includes the ability to regulate travel on Association roads and to implement reasonable access-control measures when unrestricted access may become dangerous, inconvenient, or inconsistent with the interests of Association members.

The Board therefore retains the authority to open, close, install, modify, relocate, or remove gates and related access-control devices as necessary to protect the community and ensure the safe and orderly use of Association roads, streets, and avenues. Additionally, the Board wants to ensure we do not install or defer permanent gating or fixtures that will require removal during the sewer project.

ATTACHMENT – MBA Boundary Map

