

ORDINANCE NO. 2017-086

ORDINANCE APPROVING THE RELEASE, IN THE FORMS ATTACHED AS EXHIBITS 1 AND 2, OF THE UNITY OF TITLE RECORDED ON MAY 25, 1982, IN OFFICIALS RECORDS BOOK 11450, PAGE 1435, MIAMI-DADE COUNTY PUBLIC RECORDS (“MDCPR”), WITH RESPECT TO LOTS 1, 2, 3, AND 4, **LOCATED AT 802 EAST 25TH STREET, HIALEAH, FLORIDA** (“PARCEL 1”), AND LOTS 28, 29 AND 30, **LOCATED AT 2401 EAST 8TH AVENUE AND 801 EAST 24TH STREET, HIALEAH, FLORIDA** (“PARCEL 2”), ALL IN BLOCK 97-B, AMENDED PLAT OF THE AMENDED PLAT OF THE THIRTEENTH ADDITION TO HIALEAH, RECORDED IN PLAT BOOK 34, PAGE 26, MDCPR (THE “PLAT”), TO ALLOW FOR SALE AND PURCHASE AND REDEVELOPMENT OF PARCEL 2 AND LOTS 1 AND 2, BLOCK 104-B, OF THE PLAT, **LOCATED AT 802 EAST 24TH STREET, HIALEAH, FLORIDA** (“PARCEL 3”); REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, C.C.A. T. Holdings, Inc., a Florida corporation (“CCAT”), is the current owner of Parcel 1; and

WHEREAS, Miami Latin Grill Inc., a Florida corporation (“Miami Latin Grill”), is the current owner of Parcels 2 and 3; and

WHEREAS, The Bank of Miami, a prior owner of Parcel 1, Parcel 2 and Parcel 3, entered into a Unity of Title for Parcel 1 and Parcel 2 dated May 19, 1982, and recorded May 25, 1982, in Official Records Book 11450, Page 1435, MDCPR, in order to induce the City of Hialeah to amend its Land Use Plan and grant a SU-P (Special Use – Property) permit to allow parking for the bank on Parcel 3, which the City of Hialeah did; and

WHEREAS, in January 1994, the Federal Deposit Insurance Corporation, as Receiver of Southeast Bank, N.A., which was a successor to The Bank of Miami, conveyed Parcel 1, Parcel 2 and Parcel 3 by Quit Claim to Deed to Jonnico Corporation, a Florida corporation (“Jonnico”); and

WHEREAS, in July 2002, Jonnico conveyed Parcel 2 by Warranty Deed to Unitech Diagnostics, Inc., a Florida corporation (“Unitech”), in violation of the terms of the Unity of Title; and

WHEREAS, in March 2005, Jonnico conveyed Parcel 1 and Parcel 3 by Warranty Deed to Miami Latin Grill, also in violation of the terms of the Unity of Title;

WHEREAS, in September 2006, Parcel 2 was conveyed to Miami Latin Grill, which put Parcel 1 and Parcel 2 once again under common ownership and not in violation of the Unity of Title; and

WHEREAS, in October 2012, Miami Latin Grill conveyed Parcel 1 by Warranty Deed to BankUnited, N.A., CCAT’s predecessor in title, again apparently in violation of the terms of the Unity of Title;

WHEREAS, since the City in 1982 permitted the use of Parcel 3 for parking, Parcel 3 has been used only for parking;

WHEREAS, since 2011, Hialeah Harvest Private School, Inc., a Florida corporation, has operated a child care facility in the building located on Parcel 2;

WHEREAS, the City of Hialeah Planning and Zoning Department has been informed that Parcel 1 is currently subject to sale by CCAT pursuant to a contract for purchase and sale; and

WHEREAS, Parcels 2 and 3 are currently subject to sale by Miami Latin Grill pursuant to a contract for purchase and sale (the “Miami Latin Grill Sale”); and

WHEREAS, Old Republic National Title Insurance Company (“ORNTIC”), the title company issuing the owner’s and lender’s title insurance to the contract buyer and its lender, respectively, in the Miami Latin Grill Sale; and

WHEREAS, ORNTIC is requiring before the closing of the Miami Latin Grill Sale the recording of an Ordinance adopted by the City of Hialeah approving the release of the Unity of Title; and

WHEREAS, in order to facilitate the Miami Latin Grill Sale, approval from the City of Hialeah of the release of the Unity of Title is required, and the parties are desirous of facilitating same.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA THAT:

Section 1: Approval of Release of Unity of Title.

In consideration of the pending sale of Parcel 2 and Parcel 3, the City hereby approves release of the Unity of Title for Parcel 1 and Parcel 2 dated May 19, 1982, and recorded May 25, 1982, in Official Records Book 11450, Page 1435, MDCPR, in the respective forms attached as Exhibits "1" and "2."

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

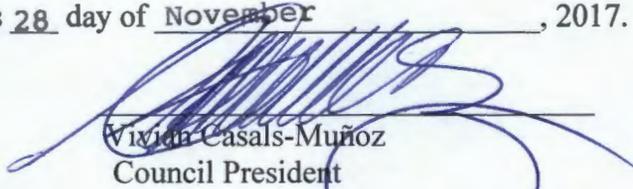
Section 5: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 28 day of November, 2017.

THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.

Attest:

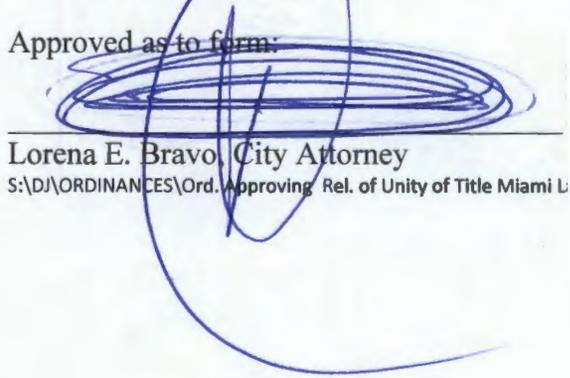

Vivian Casals-Muñoz
Council President

Approved on this 7 day of December, 2017.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to form:


Lorena E. Bravo, City Attorney
S:\DJ\ORDINANCES\Ord. Approving Rel. of Unity of Title Miami L

Ordinance was adopted by a (5-0-2) vote with Councilmembers, Caragol, Zogby, Cue-Fuente and Casals-Muñoz voting "Yes". Councilmember Hernandez and Garcia-Martinez absent.

Exhibit "1"

**FORM FOR
RELEASE OF UNITY OF TITLE
(Lots 1-4, Blk. 97-B, PB 34/26)**

This Release of Unity of Title is made at 501 Palm Avenue, Hialeah, Florida 33010 this ____ day of _____, 2017 by C.C.A. T. Holdings, Inc., a Florida corporation (the "Property Owner"), as approved by the City of Hialeah, a municipal corporation organized and existing under the laws of the State of Florida (the "City").

WITNESSETH:

WHEREAS, on May 19, 1982, a predecessor in title to the Property Owner executed a Unity of Title recorded on May 25, 1982, in Official Records Book 11450, Page 1435, of the Public Records of Miami-Dade County, Florida on real property situated and lying in Miami-Dade County, Florida (the "Unity of Title"), legally described as follows:

Lots 1, 2, 3 and 4 ("Parcel 1") and Lots 28, 29 and 30 ("Parcel 2"), all in Block 97-B, the Amended Plat of the Amended Plat of the Thirteenth Addition to Hialeah, Plat Book 34, Page 26, of the Public Records of Miami-Dade County, Florida; and

WHEREAS, the Unity of Title was executed in consideration of the City's amending its Land Use Plan and granting a SU-P (Special Use – Property) permit to allow parking for the bank on certain other real property situated and lying in Miami-Dade County, legally described as follows ("Parcel 3"):

Lots 1 and 2, Block 104-B, the Amended Plat of the Amended Plat of the Thirteenth Addition to Hialeah, Plat Book 34, Page 26, of the Public Records of Miami-Dade County, Florida; and

WHEREAS, the Property Owner currently owns Parcel 1; and

WHEREAS, the Unity of Title restricted the use of both Parcel 1 and Parcel 2 to be as one parcel of land; and

WHEREAS, the Property Owner desires to own, use, and maintain Parcel 1 as a parcel of land separate from Parcel 2 and independent of each other, and therefore desires a release of the Unity of Title; and

WHEREAS, pursuant to Hialeah Fla. Ordinance ____ (November ____, 2017), the Mayor and the City Council approved the Release of the Unity of Title.

NOW, THEREFORE, in consideration of the premises hereof, the Property Owner hereby releases, nullifies and cancels the aforesaid Unity of Title dated May 19, 1982, and recorded on May 25, 1982, in Official Records Book 11450, Page1435, of the Public Records of Miami-Dade County, Florida, subject only to the release, nullification and cancellation of the Unity of Title by the owner of Parcel 2.

IN WITNESS WHEREOF, the Property Owner has caused this instrument to be executed by a representative thereunto duly authorized this day and year first above written.

Signed, sealed and delivered
in the presence thereof:

Witness
Printed/typed Name: _____

C.C.A. T. Holdings, Inc.,
a Florida corporation

Witness
Printed/typed Name: _____

By: _____
Name: _____
Title: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, the _____ of C.C.A. T. Holdings, Inc., a Florida corporation, who is personally known to me or who has produced _____ as identification.

(SEAL)

Notary Public

Print Name

My Commission Expires: _____

EXHIBIT "2"

**FORM FOR
RELEASE OF UNITY OF TITLE
(Lots 28-30, Blk. 97-B, PB 34/26)**

This Release of Unity of Title is made at 501 Palm Avenue, Hialeah, Florida 33010 this ____ day of _____, 2017, by Miami Latin Grill Inc., a Florida corporation (the "Property Owner"), as approved by the City of Hialeah, a municipal corporation organized and existing under the laws of the State of Florida (the "City").

WITNESSETH:

WHEREAS, on May 19, 1982, a predecessor in title to the Property Owner executed a Unity of Title recorded on May 25, 1982, in Official Records Book 11450, Page 1435, of the Public Records of Miami-Dade County, Florida on real property situated and lying in Miami-Dade County, Florida (the "Unity of Title"), legally described as follows:

Lots 1, 2, 3 and 4 ("Parcel 1") and Lots 28, 29 and 30 ("Parcel 2"), all in Block 97-B, the Amended Plat of the Amended Plat of the Thirteenth Addition to Hialeah, Plat Book 34, Page 26, of the Public Records of Miami-Dade County, Florida; and

Tax Folio Nos. 04-3108-002-2050, 04-3108-002-2240 and 04-3108-002-2250

WHEREAS, the Unity of Title was executed in consideration of the City's amending its Land Use Plan and granting a SU-P (Special Use – Property) permit to allow parking for the bank on certain other real property situated and lying in Miami-Dade County, legally described as follows ("Parcel 3"):

Lots 1 and 2, Block 104-B, the Amended Plat of the Amended Plat of the Thirteenth Addition to Hialeah, Plat Book 34, Page 26, of the Public Records of Miami-Dade County, Florida; and

Tax Folio No. 04-3108-002-3110

WHEREAS, the Property Owner currently owns Parcel 2; and

WHEREAS, the Unity of Title restricted the use of both Parcel 1 and Parcel 2 to be as one parcel of land; and

WHEREAS, the Property Owner desires to own, use, and maintain Parcel 2 as a parcel of land separate from Parcel 1 and independent of each other and therefore desires a release of the Unity of Title; and

WHEREAS, pursuant to Hialeah Fla. Ordinance ___ (November ___, 2017), the Mayor and the City Council approved the Release of the Unity of Title.

NOW, THEREFORE, in consideration of the premises hereof, the Property Owner hereby releases, nullifies and cancels the aforesaid Unity of Title dated May 19, 1982, and recorded on May 25, 1982, in Official Records Book 11450, Page1435, of the Public Records of Miami-Dade County, Florida, subject only to the release, nullification and cancellation of the Unity of Title by the owner of Parcel 1.

IN WITNESS WHEREOF, the Property Owner has caused this instrument to be executed by a representative thereunto duly authorized this day and year first above written.

Signed, sealed and delivered
in the presence thereof:

Witness
Printed/typed Name: _____

Miami Latin Grill Inc.,
a Florida corporation

Witness
Printed/typed Name: _____

By: _____
Name: _____
Title: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ___ day of _____, 2017, by _____, the _____ of Miami Latin Grill, Inc., a Florida corporation, who is personally known to me or who has produced _____ as identification.

(SEAL)

Notary Public

Print Name

My Commission Expires: _____

Exhibit "1"

**FORM FOR
RELEASE OF UNITY OF TITLE**

(Lots 1-4, Blk. 97-B, PB 34/26)

This Release of Unity of Title is made at 501 Palm Avenue, Hialeah, Florida 33010 this _____ day of _____, 2017 by C.C.A. T. Holdings, Inc., a Florida corporation (the "Property Owner"), as approved by the City of Hialeah, a municipal corporation organized and existing under the laws of the State of Florida (the "City").

WITNESSETH:

WHEREAS, on May 19, 1982, a predecessor in title to the Property Owner executed a Unity of Title recorded on May 25, 1982, in Official Records Book 11450, Page 1435, of the Public Records of Miami-Dade County, Florida on real property situated and lying in Miami-Dade County, Florida (the "Unity of Title"), legally described as follows:

Lots 1, 2, 3 and 4 ("Parcel 1") and Lots 28, 29 and 30 ("Parcel 2"), all in Block 97-B, the Amended Plat of the Amended Plat of the Thirteenth Addition to Hialeah, Plat Book 34, Page 26, of the Public Records of Miami-Dade County, Florida; and

Tax Folio Nos. 04-3108-002-2050, 04-3108-002-2240 and 04-3108-002-2250

WHEREAS, the Unity of Title was executed in consideration of the City's amending its Land Use Plan and granting a SU-P (Special Use – Property) permit to allow parking for the bank on certain other real property situated and lying in Miami-Dade County, legally described as follows ("Parcel 3"):

Lots 1 and 2, Block 104-B, the Amended Plat of the Amended Plat of the Thirteenth Addition to Hialeah, Plat Book 34, Page 26, of the Public Records of Miami-Dade County, Florida; and

Tax Folio No. 04-3108-002-3110

WHEREAS, the Property Owner currently owns Parcel 1; and

WHEREAS, the Unity of Title restricted the use of both Parcel 1 and Parcel 2 to be as one parcel of land; and

WHEREAS, the Property Owner desires to own, use, and maintain Parcel 1 as a parcel of land separate from Parcel 2 and independent of each other, and therefore desires a release of the Unity of Title; and

WHEREAS, pursuant to Hialeah Fla. Ordinance ____ (November ____, 2017), the Mayor and the City Council approved the Release of the Unity of Title.

NOW, THEREFORE, in consideration of the premises hereof, the Property Owner hereby releases, nullifies and cancels the aforesaid Unity of Title dated May 19, 1982, and recorded on May 25, 1982, in Official Records Book 11450, Page1435, of the Public Records of Miami-Dade County, Florida, subject only to the release, nullification and cancellation of the Unity of Title by the owner of Parcel 2.

IN WITNESS WHEREOF, the Property Owner has caused this instrument to be executed by a representative thereunto duly authorized this day and year first above written.

Signed, sealed and delivered
in the presence thereof:

Witness
Printed/typed Name: _____

C.C.A. T. Holdings, Inc.,
a Florida corporation

Witness
Printed/typed Name: _____

By: _____
Name: _____
Title: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, the _____ of C.C.A. T. Holdings, Inc., a Florida corporation, who is personally known to me or who has produced _____ as identification.

(SEAL)

Notary Public

Print Name

My Commission Expires: _____