ORDINANCE NO. 2015-05

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA APPROVING THE RELEASE OF A DECLARATION OF RESTRICTIVE COVENANTS DATED AUGUST 29, 1996 AND RECORDED IN OFFICIAL RECORDS BOOK 17355 AT PAGE 4968, IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; AND FURTHER AUTHORIZING THE MAYOR AND THE CITY CLERK, AS ATTESTING WITNESS, TO EXECUTE THE RELEASE OF RESTRICTIVE COVENANTS ON BEHALF OF THE CITY OF HIALEAH ATTACHED HERETO AS EXHIBIT "1"; PROPERTY IS LOCATED AT 3750-54 NORTHWEST 54TH STREET, HIALEAH, FLORIDA.

WHEREAS, property owner, properly executed Declaration of Restrictive Covenants dated August 29, 1996 and recorded in Official Records Book 17355 at Page 4968 of the Public Records of Miami-Dade County, Florida, limiting the use of the property to the dismantling and storage of junked, demolished and dismantled automobiles within an existing building on property zoned M-1 (Industrial District);

WHEREAS, the current property owner intends to sell the property, cease the junked yard use and comply will all uses of right under the property's current zoning district regulations and therefore has requested a release of the Declaration of Restrictive Covenants; and

WHEREAS, the City of Hialeah consents to the release of the Declaration of Restrictive Covenants.

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

Section 1: The recitations and findings contained in the preamble to this ordinance are hereby adopted by reference thereto and incorporated as if fully set forth herein.

Section 2: The City of Hialeah, Florida hereby releases a Declaration of Restrictive Covenants dated August 29, 1996 and recorded in Official Records Book 17355 at Page 4968, in the Public Records of Miami-Dade County, Florida to reestablish the property's former

commercial use. The property is located at 3750-54 Northwest 54th Street, Hialeah, Florida and is more particularly described as follows:

See Exibit "A" attached hereto.

Section 3: The City of Hialeah, Florida hereby authorizes the Mayor and the City Clerk, as attesting witness, to execute the release of restrictive covenants on behalf of the City of Hialeah attached hereto as Exhibit "1".

Section 4: 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 24 day of February, 2015.

Isis Garcia-Martinez
Council President

Attest:

Carmen B. Hernandez
Acting Deputy City Clerk

Approved on this 25 day of February, 2015.

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

Lorena E. Bravo, City Attorney

Ordinance was adopted by a (7-0) unanimous vote with Councilmembers, Caragol, Casáls-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".

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EXHIBIT "A"

Lot 2, except the East 33 feet thereof, and all of Lots 3 and 4, of Leo Gelvan Subdivision, according to the plat thereof, as recorded in Plat Book 50, Page 23, of the Public Records of Miami-Dade County, Florida;

AND

Beginning at the N.W. corner of Lot 4, of Leo Gelvan Subdivision, Plat Book 50, at Page 23, of the Public Records of Miami-Dade County, Florida, run West along the South Line of Hialeah Drive 35.53 feet to a point; thence run South parallel to the West Line of said Lot 4, a distance of 280 feet to a point; thence run East, a distance of 35.53 feet to a point on the West Line of said Lot 4; thence run North along the West Line of said Lot 4, a distance of 280 feet and to the Point of Beginning.

AND

A portion of the Northeast 1/4 of the Northeast 1/4 of the Northeast 1/4, Section 20, Township 53 South, Range 41 East, lying East of the Easterly Right-of-Way Line of "Seaboard Coastline Railroad", together with a portion of Lot

11, Leo Gelvan Subdivision, according to the plat thereof, as recorded in Plat Book 50, Page 23, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the intersection of the Easterly Right-of-Way Line of the Seaboard Coastline Railroad with the North Line of Section 20; thence due East, along the North Line of the Northeast 1/4 of said Section 20, for 154.47 feet; thence South 0°35'15" West, along a Line parallel with the aforesaid Easterly Right-of-Way Line of the Seaboard Coastline Railroad, for 50.00 feet to the Point of Beginning of the following described parcel; thence continue South 0°35'15" West, for 286.08 feet to a point on a curve (said point bears North 33°55" West from the radius point of said curve); thence Southwesterly along a circular curve . to the left, having a radius of 379.96 feet, and a central angle of 7°37'58" for an arc distance of 50.62 feet to a point on the curve (said point bears 41°33'51" East from the radius point of said curve); thence North 0°35'15" East along a line parallel with the aforesaid Easterly Right-of-Way Line of the Seaboard Coastline Railroad for 317.04 feet; thence due East, along the South Right-of-Way Line of Hialeah Drive for 39.68 feet to the Point of Beginning, lying and being in the City of Hialeah, Dade County, Florida.

RELEASE OF RESTRICTIVE COVENANT

KNOW ALL MEN BY THESE PRESENTS:

The City of Hialeah, Florida (hereinafter referred to as, "First Party"), for and in consideration of the sum of Ten and 00/100 ($10.00) Dollars or other valuable considerations received from or on behalf of 3754 NW 54 Street, LLC (hereinafter referred to as the "Second Party"), the receipt whereof is hereby acknowledged, hereby releases, acquits, satisfies, and forever discharges Second Party from the restrictive covenants contained in that certain "Declaration of Restrictive Covenants" dated August 29, 1996 and recorded in the Miami-Dade Public Records at Book 17355, Pages 4968 and concerning that certain piece of real property more particularly described as follows:

See Exhibit "A" attached hereto.

Wherever used herein, the terms "First Party" and "Second Party" shall include singular and plural, heirs, legal representatives and assigns of individuals, and the successors, officers, agents, attorneys, representatives, parent corporation, and assigns of corporations.

This Release shall be governed by and interpreted in accordance with the laws of the State of Florida, excluding its principles governing choice or conflicts of law.

IN WITNESS WHEREOF, we have hereunto set our hands on the dates indicated below.

Dated: February __, 2015.

The City of Hialeah

By: _____

Print Name: _____

Title: _____

Attest:

_____
City Clerk

Approved as to Form and Correctness:

_____
Lorena Bravo
City Attorney, City of Hialeah

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AND

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AND

A portion of the Northeast 1/4 of the Northeast 1/4 of the Northeast 1/4, Section 20, Township 53 South, Range 41 East, lying East of the Easterly Right-of-Way Line of "Seaboard Coastline Railroad", together with a portion of Lot

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DECLARATION OF RESTRICTIVE COVENANTS
(CORPORATE ENTITY)

(I) (WE), Eloy Quevedo and Maria A. Quevedo, President and Secretary, Respectively of TARCA, INC.

Being the owner(s) of lands described herein:

also known as: 3750-54 NW 54 STREET (HIALEAH DRIVE), HIALEAH, FL

make the following Declaration of Restrictive covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida. The undersigned is seeking an application for an approval of Special Use Permit (SUP) for the property to permit its use for (a) (an): JUNK YARD

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The use of the Property shall be limited ~~as follows:~~ to the DISMANTLING AND STORAGE OF JUNKED, DEMOLISHED AND DISMANTLED AUTOMOBILES WITHIN AN EXISTING BUILDING ON PROPERTY ZONED M-1 (INDUSTRIAL DISTRICT).

2. This instrument shall not become effective unless and until the undersigned's application for Special Use Permit in connection with the property is approved by the Hialeah City Council by the adoption of an ordinance and such ordinance becomes law. Upon becoming effective, this instrument shall be recorded in the Public Records of Dade County, Florida and constitute a covenant running with the title to the land described above, binding upon the undersigned and its successors and assigns.

3. This instrument and the restrictions set forth herein may be modified, amended or released as to any portion of the land described above by written instrument executed by the then owner of the fee simple title to the lands to be affected by such modification, amendment, release, and approved after public hearing by the City Council of the City of Hialeah. Should this instrument be so modified, amended or released by the City Council, the Director of Planning and Zoning shall execute a written instrument that shall be recorded in the Public Records of Dade County effectuating and acknowledging such modification, amendment or release.

4. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

5. It is understood that if the application is approved, the undersigned must comply with all applicable Federal, State, County, City laws, rules, and regulations. It is further understood that HIALEAH, FLA., CODE § 32-19.4(b)(4) provides as follows:

   "Any change of the special use listed on the application and as provided in the Declaration of Restrictive Covenants submitted in connection therewith will be in violation of this section of the zoning code and cause revocation of the occupational license. The property shall revert as provided by Charter to the zoning classification (without the benefit of the special use) as existed prior to the approval of the SUP use."

OFF REC. 17355 PG 4968

96R420482 1996 SEP 17 15:30

10.50

OP.D 96-82

IN WITNESS WHEREOF, We have hereunto set our hands and seals at Hialeah, Florida (Location) this 29 day of AUGUST, 19 96.

Signed, sealed and delivered in the presence of:

ATTEST: Maria A. Quevedo
Secretary
Maria A. Quevedo
Typed/Printed Name

CORPORATE NAME: TARCA, INC.

By: Eloy Quevedo
President
Eloy Quevedo
Typed/Printed Name

Corporate Seal

OFF. REC. 17355 PG 4969

Candida Gueico
Witness
Typed/Printed Name CANDIDA GUEICO

Witness
Typed/Printed Name BERNARDO D BERNAL

STATE OF FLORIDA
COUNTY OF DADE

The foregoing instrument was acknowledged before me on this 29 day of August, 1996 by Eloy Quevedo (Name of Officer or Agent), as President, and Maria A. Quevedo (Name of Secretary) as Secretary, of TARCA, INC. (Name of Corporation), a FLORIDA (State or Place of Incorporation) corporation, on behalf of the corporation. They are personally known to me or have produced the following _____ as identification and did (did not) take an oath and attested to the truth and accuracy of the representations contained herein.

José de Jesús Basilio
SIGNATURE OF NOTARY PUBLIC
José de Jesús Basilio
NAME OF NOTARY TYPED, PRINTED, OR STAMPED
COMMISSION NO.

OFFICIAL NOTARY SEAL
JOSE DE JESUS BASILIO
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC323916
MY COMMISSION EXP. OCT. 17,1997

This document prepared by:

Patricia Chaiken,
Clerk Typist II,
City of Hialeah
Planning and Zoning Department

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(rev. 3/21/95)

RECORDED IN OFFICIAL RECORDS BOOK OF DADE COUNTY, FLORIDA
RECORD VERIFIED
HARVEY RUVIN
CLERK CIRCUIT COURT