

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

CASE NO.: _____

AARON STAUBER, an individual, and
GREGORY FRANKEL, an individual,

Plaintiffs,

v.

MIAMI-DADE COUNTY, a political
subdivision of the State of Florida, and
RESILIENT AQUARIUM LLC, a
Delaware limited liability company,

Defendants.

_____ /

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Aaron Stauber and Gregory Frankel (each a “Plaintiff,” and together “Plaintiffs”) sue Defendants Miami-Dade County (the “County”) and Resilient Aquarium LLC and allege:

I. Introduction

In 1993 the voters of Miami-Dade County took certain decisions about their parks away from the County Commission and kept them for themselves. Under Article 7 of the Charter, no private commercial use of a park, no renewal, expansion, or extension of a private lease of park property, may proceed without a countywide vote. On Virginia Key, the vote must be two-thirds. The voters made one narrow exception relevant here: “the Seaquarium,” the marine-life attraction then operating on its leased upland.

The County now reads that one word as permission to approve something the voters never approved. It proposes a ninety-nine-year lease that would add 56.692 acres of County bay bottom, never part of any Seaquarium lease, for a commercial marina of some 847 berths with a fuel dock and a dry-stack boat building of about 692,000 square feet. Alongside it, the County’s own plan

amendment would turn the upland into a special district for private events, wellness facilities, retail, and restaurants, totaling more than 2.3 million square feet. None of this has been put to the voters.

Plaintiffs do not ask the Court to stop the Seaquarium from being rebuilt. They ask the Court to declare that “the Seaquarium” means the Seaquarium, and that the rest of this transaction must go to the voters before the County signs it.

II. Nature of the Case

1. This is a citizen enforcement action under Article 7 of the Miami-Dade County Home Rule Charter, brought pursuant to Section 7.03 of the Charter and Chapter 86, Florida Statutes.

2. Section 7.03 of the Charter provides that the provisions of Article 7 “may be enforced by a citizen alleging a violation of this Article filed in the Dade County Circuit Court pursuant to its general equity jurisdiction.”

3. The controversy concerns a proposed transaction under which the County would approve and execute a ninety-nine-year amended and restated Seaquarium lease with Resilient Aquarium LLC (“RAL”), authorizing, among other things, a new, large-scale, independently functioning private commercial marina and extending the project into County-owned submerged lands, without submitting those non-exempt components to the voters in a countywide referendum.

4. The transaction has not closed. The United States Bankruptcy Court approved the underlying Assignment Agreement, but the Bankruptcy Court’s Order and the Assignment Agreement expressly provide that the Seaquarium lease transfers to RAL only upon “Closing.” Closing is expressly conditioned upon, among other things, final approvals by the Miami-Dade County Board of County Commissioners (the “Board”), execution of the amended lease, and satisfaction or waiver of specified conditions precedent. On October 1, 2026, the Bankruptcy Court

adjourned the hearing on confirmation of the Chapter 11 plan, previously set for October 20, 2026, to a date to be determined (Docket No. 1554); the Closing conditions are unchanged.

5. Article 7's exemption sentence names "the Seaquarium" within a closed list of identified facilities and removes as to them only "[t]he restrictions applying to parks." The sentence names a historically identifiable facility. It does not name a development site, a marina, or submerged lands, and it does not authorize the County to enlarge the exemption's functional or geographic reach by contract.

6. Plaintiffs do not contend that ordinary modernization, redevelopment, restaurants, attractions, or other uses genuinely ancillary to the historic Seaquarium necessarily require a referendum. Plaintiffs challenge the use of the Seaquarium exemption to authorize materially different and independently functioning private commercial uses, an enlarged leasehold, and a new ninety-nine-year term beyond the exempted facility.

7. Plaintiffs seek declarations defining the lawful scope of the Seaquarium exemption and determining that the proposed ninety-nine-year amended and restated lease, the proposed private commercial marina, and the addition or use of submerged lands outside the exempted facility are subject to Article 7's referendum requirements, together with prospective injunctive relief preserving the voters' Charter rights before the County supplies the final approvals necessary for Closing. Plaintiffs seek no damages and do not ask this Court to halt lawful redevelopment of the historic Seaquarium facility itself.

III. Jurisdiction and Venue

8. This Court has jurisdiction under Section 26.012(2)(c), Florida Statutes, which vests circuit courts with exclusive original jurisdiction "[i]n all cases in equity," and under Section 26.012(3), which provides that "[t]he circuit court may issue injunctions."

9. This Court also has jurisdiction under Section 86.011, Florida Statutes, which authorizes the circuit courts “to declare rights, status, and other equitable or legal relations whether or not further relief is or could be claimed.”

10. Section 7.03 of the County Charter directs that Article 7 may be enforced by citizen action “filed in the Dade County Circuit Court pursuant to its general equity jurisdiction.”

11. Venue is proper in Miami-Dade County. The property at issue is County-owned property in Miami-Dade County, and the governmental actions challenged were and will be taken by Miami-Dade County and its Board in Miami-Dade County.

IV. Parties

12. Plaintiff Aaron Stauber is a resident and citizen of Miami-Dade County, Florida, and a registered elector entitled to vote in a countywide referendum.

13. Plaintiff Gregory Frankel is a resident and citizen of Miami-Dade County, Florida, and a registered elector entitled to vote in a countywide referendum.

14. Section 7.03 confers enforcement standing on “a citizen alleging a violation of this Article.”

15. Defendant Miami-Dade County is a political subdivision of the State of Florida operating under the Miami-Dade County Home Rule Charter. The County owns the property at issue and is the landlord under the Seaquarium lease.

16. Defendant Resilient Aquarium LLC is a Delaware limited liability company and an affiliate of Terra Acquisitions Florida, LLC. RAL is the Bankruptcy Court-approved purchaser and prospective assignee of the Seaquarium lease and is the County’s proposed counterparty for the amended and restated lease. Because Closing has not occurred, RAL has not yet acquired the Seaquarium leasehold pursuant to the Bankruptcy Court-approved transaction. RAL is joined

under Section 86.091, Florida Statutes, because it claims an interest that would be affected by the declarations and injunctive relief sought.

V. The Charter Framework

17. Article 7 of the Home Rule Charter is titled PARKS, AQUATIC PRESERVES, AND PRESERVATION LANDS. The provisions now codified as Article 7 were adopted by the electorate in 1993, as Article 6, through a citizen-initiated petition known as the Save Our Parks Amendment and were later renumbered as Article 7.

18. Section 7.01 provides: “Parks, aquatic preserves, and lands acquired by the County for preservation shall be held in trust for the education, pleasure, and recreation of the public and they shall be used and maintained in a manner which will leave them unimpaired for the enjoyment of future generations as a part of the public’s irreplaceable heritage.”

19. Section 7.01 further commands: “They shall be protected from commercial development and exploitation and their natural landscape, flora and fauna, and scenic beauties shall be preserved.”

20. Section 7.01 also provides: “In lands acquired by the County for preservation and in parks along the Ocean or the Bay the public’s access to and view of the water shall not be obstructed or impaired by buildings or other structures or concessions which are in excess of 1500 square feet each.”

21. Section 7.02 states the general referendum rule:

In furtherance of this policy parks shall be used for public park purposes only, and subject to the limited exceptions set forth in this Article, there shall be no permanent structures or private commercial advertising erected in a public park or private commercial use of a public park or renewals, expansions, or extensions of existing leases, licenses, or concessions to private parties of public park property, unless each such structure, lease, license, renewal, expansion, extension, concession or use shall be approved by a majority vote of the voters in a County-wide referendum.

22. Section 7.02 then imposes a heightened requirement for parks that are nature preserves, beaches, natural forest areas, historic or archeological areas, or otherwise possess “unique natural values in their present state,” a list that expressly includes “Virginia Key.” For that class, the Charter provides that “any structure, lease, license, renewal, extension, concession or use in any of this class of public parks or in aquatic preserves and preservation lands must be approved by an affirmative vote of two-thirds of the voters in a County-wide referendum.”

23. Section 7.02 contains a savings clause providing that,

“Nothing in this Article shall prevent” the construction, operation, maintenance, and repair by government agencies or private operators of an enumerated list of park-serving facilities, “provided that there be no adverse impact to natural resources on lands acquired or designated for preservation by the Board of County Commissioners.” Item D of that list reads: “Facilities for marinas, sightseeing and fishing boats, visiting military vessels, and fishing.”

24. Section 7.02 separately contains a facility exemption sentence: “The restrictions applying to parks in this Article shall also not apply to” a closed list of identified facilities that includes “*the Seaquarium.*”

25. Each entry in that exemption sentence names a then-identifiable facility or a defined class of small parks. None names a future development program, a new marina, or surrounding submerged lands.

26. Section 7.02 further commands that the County and other public entities “shall not expend any public money or provide any publicly funded services in kind to any project which does not comply with this Article” and that “[n]o building permit or certificate of occupancy shall be issued for any structure in violation of this Article.”

27. Section 7.02 also provides that “[n]o park facilities, golf courses, or County lands acquired for preservation shall be converted to or used for non-park offices, purposes, or uses.”

28. Section 7.03 supplies the controlling rule of construction: “The provisions of this Article shall be liberally construed in favor of the preservation of all park lands, aquatic preserves, and preservation lands.”

29. The County has previously construed the exemption sentence narrowly. Metro Zoo is named in the same sentence as the Seaquarium. In 2006 the County proposed to contract with private operators to develop and operate a water park, a family entertainment center, retail concessions, food and beverage establishments and a hotel on Metro Zoo property outside the animal attractions. The County Attorney’s Office determined that those private commercial uses of park property required approval by a majority of the voters in a countywide referendum notwithstanding the Metro Zoo exemption, and on July 6, 2006 the Board adopted Resolution No. R-820-06 calling a special election to comply with the parks article of the Charter, then numbered Article 6. The County Manager’s memorandum accompanying the resolution stated that the Charter “requires that commercial uses of public park property, as determined by the County Attorney’s Office to be the case at the Metrozoo property, be approved by a majority of the voters in a countywide referendum,” and that only upon “the approval by voters of the uses and structures contained in this referendum” would “the process for modifying land use and zoning” proceed. The voters approved the question on November 7, 2006. (**Exhibit A**).

30. Section 7.03 further provides that a successful citizen plaintiff “shall be entitled to recover costs as fixed by the Court.”

31. Section 7.04 excludes municipal property of certain listed municipalities. The premises at issue are County-owned property, not municipal property, and Article 7 applies according to its terms.

VI. Factual Allegations Common To All Counts

A. The Historic Seaquarium, the State Conveyances, and the Existing Lease

32. The Miami Seaquarium is located at 4400 Rickenbacker Causeway on County-owned property on Virginia Key.

33. The existing leased premises are described as a portion of Folio No. 30-4220-000-0010.

34. The County acquired the Seaquarium property through conveyances from the State of Florida. In *Dade County v. Marine Exhibition Corp.*, 296 So. 2d 652 (Fla. 3d DCA 1974), the Third District Court of Appeal described the County as having acquired the property from the State of Florida and held that, “[t]he deed provided that the County was to use the land for a public purpose.”

35. The recorded instruments identified in the later bankruptcy transaction include an instrument recorded in Deed Book 2065, Page 454, as modified by an instrument recorded in Official Records Book 2256, Page 643, and as affected by an instrument recorded in Deed Book 3069, Page 248.¹ (**Exhibit B**).

36. The submerged land proposed for the marina is County land held under Trustees’ Deed No. 19436 (1948), which conveyed that bottom to the County on the condition that it “shall be used for public purposes only.”

37. On March 9, 1954, the County entered into a lease of the site, originally with Marine Exhibition Corporation, for operation of a marine attraction. *See Exhibit J, infra*.

38. An amended and restated lease was approved by the Board on July 25, 1990. (**Exhibit C**). The lease term has been extended three times, resulting in a current expiration date

¹ The precise legal effect and geographic scope of those instruments are not asserted as an independent cause of action in this Complaint.

of November 26, 2044, with optional renewal terms of up to ten years if the tenant makes substantial capital improvements. *See Exhibit J, infra.*

39. The Seaquarium's Amended and Restated Lease of September 25, 1990, recorded with Resolution R-999-90 at Official Records Book 14732, Page 779, and the Amended and Restated Lease of July 25, 2000, as amended, each describe the demised premises as the upland tract running "along said Bulkhead Line" as shown on the Bulkhead Line Map recorded in Plat Book 74, Page 6. No submerged land waterward of the Bulkhead Line has ever been within the Seaquarium leasehold. (**Exhibit C**).

40. On October 19, 2021, the Seaquarium's lease was assigned to MS Leisure Company, Inc. ("MS Leisure"). (**Exhibit D**).

41. When the electorate adopted the Save Our Parks provisions in 1993, the Seaquarium was an existing marine-life attraction operating on its historic premises. The Article 7 exemption names that facility.

42. The County's own records fix what the Seaquarium was when the voters adopted those provisions. In 1991 the Board approved the last expansion of the facility, by Resolutions Z-131-91 and Z-131A-91, with a boat basin of 30 slips, only 14 of them for power boats, on a finding that the project would "incorporate no dredge and fill activities in and no stormwater discharge into Class II waters, aquatic preserves, or Outstanding Florida Waters." (**Composite Exhibit E**).

43. The same year, by Resolution R-1029-91, the Board granted the State of Florida a perpetual conservation easement over that boat basin (Official Records Book 15240, Page 3385) prohibiting dredge and fill, refueling facilities, sewage pump-out facilities, and overnight slip rentals there. (**Exhibit F**).

44. In 1992 the lessee recorded a Declaration of Restrictive Uses (Official Records Book 15669, Page 880) tying the site to a single-admission family attraction. (**Exhibit G**).

45. On February 24, 2026, County staff recorded a release of that Declaration (Official Records Book 35175, Page 1280), citing Section 4 of Resolution R-1177-25. (**Exhibit H**).

46. By its terms, the Declaration may be modified or released only by a recorded instrument “approved by the Board of County Commissioners.” Plaintiffs have found no action of the Board approving that release.

47. Plaintiffs’ pre-suit notice asked the County to identify any Board approval of the release (*see Exhibit P, infra*); the County has not done so.

48. The County has twice before approved expanded commercial development on this site, and the Third District Court of Appeal twice set the approvals aside.

49. In *Village of Key Biscayne v. Dade County*, 627 So. 2d 1180 (Fla. 3d DCA 1993), the appellate court held the 1991 “Seaquarium Village” approvals inconsistent with the site’s Parks and Recreation designation.

50. In *Village of Key Biscayne v. Department of Community Affairs*, 696 So. 2d 495 (Fla. 3d DCA 1997), the appellate court held the County’s subsequent plan amendment for the site invalid on its face.

B. Eviction, Bankruptcy, and the Conditional RAL Transaction

51. On June 25, 2024, the County filed suit in the County Court of the Eleventh Judicial Circuit seeking to evict MS Leisure from the premises.

52. On March 31, 2025, while the eviction action was pending, MS Leisure filed a voluntary Chapter 11 petition in the United States Bankruptcy Court for the District of Delaware.

53. On September 26, 2025, MS Leisure and RAL entered into an Agreement for Assignment and Assumption of Amended and Restated Lease (the “Assignment Agreement”). The Assignment Agreement provides that the transfer and assignment of MS Leisure’s interest in the

Seaquarium lease occurs “[a]s of the Closing Date,” and expressly makes the parties’ obligations contingent upon specified conditions precedent. (**Exhibit I**).

54. The Assignment Agreement provides for a purchase price that, as amended, is \$22,750,000. Deposits are payable before Closing, but the balance of the purchase price and delivery of the assignment occur at Closing.

55. On October 17, 2025, the Bankruptcy Court entered its Order (I) Approving Assumption and Assignment of the Miami Seaquarium Lease Free and Clear of Liens and Other Encumbrances, and (II) Granting Related Relief (the “Bankruptcy Order”). (**Exhibit J**).

56. The Bankruptcy Order approved the Assignment Agreement and its First and Second Amendments and authorized the contemplated transaction; it did not consummate the transfer itself. (*Id.*).

57. The Bankruptcy Order repeatedly provides that vesting and transfer of the lease occur “Upon Closing.” It further provides that the Debtors are authorized to assume and assign the lease “upon the Closing of the Transaction” and that RAL becomes substituted for the Debtors as tenant only upon Closing. (*Id.*).

58. Paragraph 22 of the Bankruptcy Order expressly provides: “the Closing shall be subject to the MDC Board Approvals being granted by the Board of County Commissioners of Miami-Dade County.” (*Id.*).

59. The Assignment Agreement likewise distinguishes “Initial MDC Board Approvals” from “Final MDC Board Approvals.” The Final MDC Board Approvals include the Board’s formal approval and authorization for the County Mayor to execute the Lease Amendment and the Assignment of Lease. (**Exhibit I**).

60. Section 10 of the Assignment Agreement makes RAL’s obligation to consummate the transaction subject to conditions precedent. Section 10(k) requires the Board to have adopted

both the Initial MDC Board Approvals and “all Final MDC Board Approvals.” Section 10(l) requires delivery of the Assignment of Lease duly executed by MS Leisure and the County. Section 10(m) requires RAL and the County to have entered into the Lease Amendment effective as of Closing. (*Id.*)

61. The Assignment Agreement further provides that Closing is to occur after the Final MDC Board Approvals become effective, expressly subject to the conditions precedent in Sections 10 and 11. It also recognizes pre-Closing judicial relief as a potential condition affecting consummation by providing that no court of competent jurisdiction shall have issued an injunction prohibiting Closing. (*Id.*)

62. Section 13(a)(iv) of the Assignment Agreement permits either party to terminate the transaction if a challenge to a Board approval is filed and not resolved within 45 days. The transaction documents thus contemplate that a Board approval may be challenged before Closing. (*Id.*)

63. The First Amendment to the Assignment Agreement, dated October 13, 2025, added further conditions to Closing based upon RAL’s due diligence. Section 3 identifies “Objectionable Conditions” listed on Schedule 1 and amends Section 10 to require their “release, removal, or other cure” to RAL’s reasonable satisfaction before Closing, unless waived by RAL as provided in the First Amendment. (**Exhibit K**).

64. Schedule 1 identifies as an Objectionable Condition a binding determination from the State of Florida that the reverter under the specified State conveyance instruments is no longer effective and that “the proposed marina and related uses, including the private operation of those elements, complies with the ‘public purpose’ restriction in the Deed,” or a binding release of that restriction. (*Id.*)

65. The Bankruptcy Court-approved transaction documents therefore treat the proposed marina and its private operation as presenting a distinct legal issue under the State conveyances that must be resolved, released, or waived before RAL is obligated to close.

66. Plaintiffs do not allege that this contractual condition determines the separate Article 7 question; it is relevant because the transaction documents themselves distinguish the proposed marina and its private operation from the historic *Seaquarium* facility.

67. Closing has not occurred. Accordingly, RAL has not yet acquired the Seaquarium leasehold under the Bankruptcy Court-approved transaction, and the County's remaining approvals are not collateral to a completed assignment; they are express conditions precedent to the contemplated transfer and Closing.

68. In their Combined Disclosure Statement and Joint Chapter 11 Plan filed September 4, 2026 (Docket No. 1480, at 50 to 51), the Debtors told the Bankruptcy Court that the Seaquarium property's use "is subject to significant legal restrictions" and that the County's Charter "significantly restricted the real property's use solely 'for public park purposes,'" citing Article 7.02. (**Exhibit L**).

69. A hearing on confirmation of that plan, previously set for October 20, 2026, was adjourned on October 1, 2026 to a date to be determined (Docket No. 1554).

C. The December 2, 2025 Resolution and Proposed Ninety-Nine-Year Lease

70. On December 2, 2025, the Board adopted Resolution R-1177-25, Legistar File No. 252179, authorizing and approving the proposed assignment and directing the County Mayor or designee to negotiate an amended and restated lease with RAL consistent with an attached term sheet. (**Exhibit M**).

71. The Resolution constitutes the Initial MDC Board Approvals contemplated by the Assignment Agreement. It does not constitute the Final MDC Board Approvals necessary for

Closing, because the negotiated amended and restated lease must return to the Board for final approval and authorization of execution.

72. The Resolution also authorizes the Mayor or designee to submit land-use, zoning, and permitting applications for the contemplated project. The Assignment Agreement separately authorizes development approvals to be pursued before Closing.

73. No referendum accompanied or preceded Resolution R-1177-25, and the Resolution does not mention Article 7.

74. The term sheet attached to the Resolution identifies the property as a portion of Folio No. 30-4220-000-0010 “including certain submerged lands.” (**Exhibit M**).

75. The term sheet provides that the amended and restated lease will expire “99 years after the Effective Date.” (*Id.*)

76. The term sheet’s proposed improvements include a new aquarium, marine and aquatic experiences, education and research uses, a fisherman’s village with marine-oriented retail and food and beverage establishments, and a “marina with wet slips and a dry stack, including fueling facilities/dock and other ancillary or accessory uses customarily associated with the operation of a marina.” (*Id.*)

77. The County’s own text for the proposed “Seaquarium Activity Area Special District” (CDMP20260007) describes the upland program in more detail: a wellness component on up to seven acres, private event use of the Buckminster Fuller Dome and approximately 374,600 square feet of event space, a retail and food-and-beverage “village” of approximately 236,000 square feet, and total development of approximately 2.37 million square feet, under a lease term running to 2125. (*Id.*)

78. Those are private commercial uses of County park land and non-park uses within the meaning of Section 7.02, and none of them is the historically identifiable *Seaquarium* attraction the voters named.

79. The term sheet requires a minimum investment of \$100,000,000 and sets percentage rent at three (3) percent of gross revenues for the project generally but five (5) percent of gross revenues “earned through the operation of the marina portion of the Project.” The County’s own term sheet thus treats the marina as a separately measured revenue-producing component. (*Id.*)

80. The amended and restated lease has not yet received the Final MDC Board Approvals necessary for Closing. The County has been advancing the lease and companion land-use approvals toward Board consideration.

81. The County has prepared an execution-version Second Amended and Restated Lease (compiled October 1, 2026) (**Exhibit N**):

- a. Schedule 1.1 adds to the demised premises a 56.692-acre “Marina Parcel” of submerged lands lying bayward of the bulkhead line;
- b. Section 2.2 extends the term to ninety-nine years from the Effective Date;
- c. Sections 2.9.E and 2.9.F provide for surrender of the submerged lands if permits are not obtained and an exclusive option to lease them thereafter; and
- d. Section 23.1 provides for severance of any portion of the project that does not comply with Article 7.

82. The tenant's signature page was executed by David Martin, Manager of Resilient Aquarium LLC, and notarized on September 16, 2026; the County’s signature blocks are blank. (**Exhibit N**).

83. In that instrument the tenant represents and warrants that its intended and actual uses of the premises shall not violate Article 7 of the Charter (Section 4.1), and the parties agree that changes to the plan must comply with Article 7 (Section 2.8.B). The parties to the proposed lease thus treat Article 7 as applicable to these premises. (*Id.*).

D. The Proposed Marina Is a New, Independently Functioning Commercial Enterprise

84. The project's land-use and permitting record describes a marina of approximately 295 wet slips and dry storage for up to 552 boats, totaling up to 847 wet and dry berths, as reduced by the applicant's September 29, 2026 modification of Application CDMP20260007 (from 325 wet slips and 877 berths as originally filed).

85. The companion zoning application asks the Board to approve, as an unusual use after public hearing, a wet-slip marina on approximately 56.7 acres of County-owned bay bottom outside the existing leasehold. The comprehensive-plan amendment covers only the approximately 36.5-acre upland. The program also includes a dry-stack boat storage building of approximately 692,000 square feet on the upland, serving the marina.

86. The program as described in the applicant's 2026 permit filings includes approximately 90 slips for yachts 80 feet and longer, accommodations for vessels up to approximately 200 feet, and a fuel dock exceeding 19,000 square feet.

87. The applicant's permit drawings (Sheets S-3.2 and S-3.6, August 18, 2026) place the wet slips and piers on County bay bottom outside the existing leasehold, add a fuel dock, and show approximately 35,698 square feet and 3,305 cubic yards of dredging to minus 8 feet in the existing boat basin that is subject to the 1991 conservation easement.

88. The County, through its Parks Recreation and Open Spaces Department, is the named applicant for an environmental resource permit for the marina from the Florida Department of Environmental Protection under application 13-0469201-006-EI; its consultant filed the

response to the Department's May 29, 2026 request for additional information on September 30, 2026.

89. The County has also pursued land-use approvals for the redevelopment, including a rezoning application identified as Z2026000106 and a Comprehensive Development Master Plan amendment identified as CDMP20260007. The County's Comprehensive Development Master Plan designates the upland Seaquarium site "Parks and Recreation" on its Land Use Plan map. CDMP20260007, filed by the County's own Parks, Recreation and Open Spaces Department as a small-scale amendment under § 163.3187, Florida Statutes, and therefore subject to a single adoption hearing without State agency review, would change that designation to a new "Special District" on approximately 36.507 gross acres of upland and add site-specific text creating a "Seaquarium Activity Area Special District" that would authorize, among other things, 877 marina berths as filed, since reduced to 847 by the applicant's September 29, 2026 modification. The submerged land proposed for the marina would remain designated "Water" on the map while taking its marina entitlements from that site-specific text. **(Exhibit O)**.

90. A land-use designation adopted by County ordinance cannot remove County park land from Article 7 of the Charter, which the electorate adopted and which names Virginia Key. Section 7.02 forbids the conversion of park facilities to non-park purposes or uses except as the Article itself allows, and the re-designation of park land to permit private commercial uses is itself subject to the referendum requirement rather than a means of avoiding it.

91. A marina of the proposed scale, with its own berth customers, fueling infrastructure, dry-storage operation, and separately measured revenue stream, is capable of functioning as a private commercial enterprise independent of an aquarium.

92. The historic *Seaquarium* was a marine-life attraction. It was not a commercial marina, and no marina of the proposed scale has historically operated as part of the *Seaquarium* facility.

E. Submerged Lands and the Aquatic Preserve

93. The term sheet expressly contemplates “certain submerged lands” as part of the proposed premises. To the extent those submerged lands are outside the historic Seaquarium leasehold or facility, their incorporation into the proposed transaction would enlarge the geography of the voter-created Seaquarium exemption if the County’s interpretation were accepted. (**Exhibit M**).

94. The proposed marina extends into Biscayne Bay over submerged bay bottom.

95. Biscayne Bay is designated by Florida law as an aquatic preserve, and the Biscayne Bay Aquatic Preserve Act (§ 258.397, Fla. Stat.) includes submerged bottom lands and the water column within the statutory preserve boundaries.

96. The applicant contends that the submerged land proposed for the marina lies outside the State’s Biscayne Bay Aquatic Preserve because it is County-owned rather than sovereignty land: its August 28, 2026 Supplement to the Environmental Assessment Plan states that the marina was sited on County-owned bottom so that the project need not demonstrate the “extreme hardship” required of new marinas in the Aquatic Preserve.

97. Whether or not the State preserve boundary reaches it, that bottom is land the County itself has designated for preservation: Chapter 24 of the Code of Miami-Dade County designates Biscayne Bay an aquatic park and conservation area, and in 1991 the Board placed the Seaquarium boat basin under a perpetual conservation easement.

98. Article 7 itself treats “parks,” “aquatic preserves,” and “preservation lands” as distinct protected categories. The Seaquarium exemption is textually narrower: it states only that “[t]he restrictions applying to parks” shall not apply to the named facilities.

99. Virginia Key is also enumerated by name in Section 7.02’s class of natural-resource parks, and the same sentence extends the two-thirds referendum requirement to “aquatic preserves and preservation lands.”

100. The submerged lands contemplated for the proposed marina are not themselves the historically identifiable *Seaquarium* attraction that the voters named in the exemption. A later lease exhibit cannot enlarge a voter-created facility exemption into otherwise protected submerged lands merely by adding them to the premises.

F. Article 7’s Marina Language and the County’s Own Referendum Practice

101. No countywide referendum on the proposed ninety-nine-year lease, the proposed commercial marina, or the proposed addition or use of submerged lands has been held, scheduled, or proposed.

102. County officials have taken the position that the project is exempt from Article 7 and have stated that “the operation of a marina is acceptable” under the Charter.

103. That position cannot be reconciled with the actual words of Section 7.02, Item D without rendering words surplusage. Item D does not say simply “marinas.” It says, “Facilities for marinas, sightseeing and fishing boats, visiting military vessels, and fishing.” The words “Facilities for” must be given operative meaning.

104. Read in harmony with the remainder of Section 7.02, Item D permits construction, operation, maintenance, and repair of facilities serving otherwise lawful marina and related water-dependent recreational uses; it does not silently create a blanket exemption from the same section’s

referendum requirements for the creation and ninety-nine-year private operation of any new commercial marina on protected County property.

105. The Charter’s treatment of Black Point Marina confirms the need to harmonize Item D with the referendum provisions. Article 7 specifically protects Black Point Marina within its natural-resource class. A construction under which Item D independently authorizes any new or expanded private commercial marina without a referendum would substantially diminish the express protections applicable to Black Point and other waterfront park property.

106. The County’s own historical practice also supports the narrower construction. In 2000, by Resolution R-829-00, the County called a special election to amend the Charter merely to permit private food-service providers to renovate and operate existing restaurant facilities at existing golf courses and marinas.

107. The electors approved that amendment, and its language appears in Section 7.02 today: the Charter permits “the maintenance, operation, and renovation of existing golf course and marina restaurants at their existing square footage,” and only where “private operators are chosen as a result of competitive selection and their initial contract terms are limited to no more than ten years.”

108. If Section 7.02, Item D already broadly exempted private commercial marina operations from Article 7, there would have been no apparent need to obtain voter authorization merely to permit private operators to renovate and operate existing restaurants at existing County marinas. R-829-00 is therefore consistent with, and corroborates, the narrower textual reading of Item D.

109. The Charter also demonstrates how a named exemption reads when the electorate intends to authorize new development. The provision concerning the Dade County Youth Fair site and expansion of Florida International University speaks expressly in acreage limits, conditions,

relocation requirements, and funding restrictions. The exemption for “the Seaquarium” contains no comparable grant of future development authority.

G. The Controversy Is Present and Ripe for Prospective Relief

110. The controversy is not contingent upon a hypothetical future transaction.

- a. The Bankruptcy Court has approved the Assignment Agreement (**Exhibit J**);
- b. the Board has adopted the Initial MDC Board Approvals (**Exhibit M**);
- c. the County and RAL have negotiated toward the required Lease Amendment (**Exhibit N**);
- d. the County has authorized and pursued land-use and permitting applications (**Exhibit O**); and
- e. the Final MDC Board Approvals and execution of the Lease Amendment are express conditions precedent to Closing (**Exhibit I**).

111. The adjournment of the plan confirmation hearing (Docket No. 1554, October 1, 2026) moved a date; it did not alter those conditions.

112. Section 86.051, Florida Statutes, provides that a declaratory judgment “may be rendered by way of anticipation with respect to any act not yet done or any event which has not yet happened.”

113. The parties presently disagree over whether Article 7 requires voter approval before the County may give the Final MDC Board Approvals and execute the amended and restated lease containing the challenged components. That dispute affects the legal authority of the County to take the very governmental actions required for Closing.

114. The County has been asked directly, in writing, whether it will submit the marina to the voters and has not answered. The dispute is therefore not hypothetical; it reflects the County’s publicly stated position and its silence in response to a written request.

115. The Assignment Agreement itself contemplates that development approvals may be pursued before Closing and makes Closing subject to the absence of an injunction prohibiting consummation. Prospective judicial review before Final MDC Board Approvals and Closing therefore addresses the transaction at the point when the alleged Charter violation can still be prevented rather than after the public property has been contractually committed.

116. If the County gives the Final MDC Board Approvals, executes the amended and restated lease, and permits Closing without the referendum Plaintiffs allege Article 7 requires, the voters' Charter rights will have been bypassed, and public property will have been committed to the challenged transaction. Plaintiffs have no adequate remedy at law for that loss of the right to vote before the transaction is consummated.

117. Plaintiffs therefore allege that the County has taken official actions implementing a transaction subject to Article 7 and, unless restrained, will approve, execute, and implement the challenged non-exempt components without the referendum required by the Charter. Plaintiffs bring this action before Closing to obtain a declaration of the parties' rights and preserve the status quo.

H. Pre-Suit Notice and the County's Response

118. On September 30, 2026 Plaintiffs, through counsel, delivered written notice by email and hand delivery to the County Attorney and the Mayor, with copies to each member of the Board of County Commissioners and to the Clerk of the Board identifying the Article 7 questions presented by the proposed transaction and the relief Plaintiffs would seek if the County proceeded without a referendum. **(Exhibit P)**.

119. The notice asked the County to confirm in writing that it would not grant the Final MDC Board Approvals, execute the proposed Lease Amendment or Assignment of Lease, adopt Applications CDMP20260007 or Z2026000106 insofar as they authorize the marina or the other

components the notice identified, or approve any amendment to the existing lease that expands the demised premises to include submerged lands or otherwise extends the leasehold beyond the Bulkhead Line, unless and until the marina and its related components were approved by the voters as Article 7 requires. (*Id.*)

120. The notice also demanded that, pending that confirmation, the County defer placing those items on any Board agenda and release the County Attorney's opinion on the application of Article 7 to the transaction; asked the County to preserve the status quo voluntarily pending a prompt declaratory ruling; and offered to meet with representatives of the County Attorney's Office, the Mayor's Office and the Board. (*Id.*)

121. The notice requested a response within ten business days of receipt and, in any event, before the lease or either land-use item was placed on a Board agenda. (*Id.*)

122. Ten business days expired on October 14, 2026. As of the filing of this Complaint, the County has not provided the requested confirmation and has not stated its position on the Article 7 question.

123. Plaintiffs reserve the right to amend this Complaint if the County responds after it is filed.

124. Since receiving the notice, the County has continued to advance the transaction. On October 13, 2026, the same day County representatives met with Plaintiffs as set forth below, the Deputy Mayor assigned the first reading of Application CDMP20260007 to the agenda of the Board's regular meeting of October 20, 2026, as Item 4M. The same day, the applicant filed in Application Z2026000106 a fourth draft Declaration of Restrictions and a third amended letter of intent, the instruments by which the rezoning and the marina unusual use would be approved at public hearing. The County's permitting system reflects the Board's public hearing on Application

Z2026000106 scheduled for November 19, 2026, and the applicant's counsel has advised the County in writing that the proposed lease will be presented to the Board before that hearing.

125. On October 20, 2026, the Board gave first reading to the CDMP amendment application (Agenda Item 4M) as part of a single motion approving all first-reading items, and on the same day adopted Ordinance Item 5F, reducing the minimum site size for the REDPAD district from 50 acres to 30 acres. The Board did not set an adoption hearing date on the record; counsel for the applicant, RAL, in substance told the Board that the adoption hearing would be held on November 19, 2026, and that the application is solely to effectuate the term of the lease authorized by Resolution R-1177-25. When a commissioner asked in open session why the County had concluded that Article 7 does not apply, the County Attorney declined to answer publicly citing the threatened litigation.

126. Absent a declaration, the timing of the County's action is entirely within the County's control. The lease could be placed on a Board agenda on a few days' notice, and Plaintiffs' Charter rights could be foreclosed before any court could rule.

127. The County has published notice of the November 19, 2026 hearing on Applications CDMP20260007 and Z2026000106, the land-use and zoning items that authorize the marina.

128. County officials have stated publicly that the Administration relies on an opinion of the County Attorney that Article 7 does not require a referendum for this transaction.

129. A public records request to the County Attorney's Office for any such opinion or memorandum (Request No. R054961, served September 16, 2026) was closed by the County on September 23, 2026 with the response "No Records Located" (**Exhibit Q**).

130. The County's refusal to confirm that it will comply with Article 7 before acting, and its continued advancement of the transaction after written notice, establish an actual, present, and adverse controversy between the parties concerning their rights and obligations under Article 7.

131. On October 13, 2026, Plaintiffs, with their counsel, met by videoconference with Mayor Daniella Levine Cava and Deputy Mayor Roy Coley, with Melanie Spencer and Miguel A. Gonzalez of the County Attorney's Office in attendance, and presented their position that Article 7 requires a countywide referendum before the County approves the proposed lease and the non-exempt components of the transaction.

132. At the meeting, County representatives stated that the Board would not vote on the lease at its October 20, 2026 meeting. The County did not agree to submit any component of the transaction to the voters and did not acknowledge that Article 7 requires a referendum.

133. The County continues to push its plans forward. On October 15, 2026, Plaintiffs' counsel wrote to the Deputy Mayor and the County Attorney's Office requesting the status of the County's evaluation of the referendum question, noting that the first reading of Application CDMP20260007 had been added to the October 20 agenda, and asking the County to clarify its intentions. (**Exhibit R**).

134. On October 16, 2026, the Deputy Mayor responded that the October 20 agenda item “concerns the first reading of the proposed Comprehensive Development Master Plan (CDMP) amendment;” that through Resolution R-1177-25 the Board (**Exhibit S**):

- a. “directed the Administration to negotiate an amended and restated lease and authorized the submission of associated land-use, zoning, and permitting applications;”

- b. the CDMP amendment “is proceeding through its separate legislative review process” and its first reading “does not constitute final approval of the amendment or approval of the proposed lease;” and
- c. “the proposed amended lease is not scheduled for consideration at the October 20 Board meeting.”

135. The Deputy Mayor's response did not address whether Article 7 requires a referendum, did not state the County's position on that question, and gave no assurance that the County would submit the lease or any component of the transaction to the voters. (*Id.*).

136. The same day, Plaintiffs' counsel replied, again asking whether Plaintiffs' position “is being given any credence with the County to proceed with a public referendum?” (**Exhibit T**). As of the filing of this Complaint, the County has not responded.

137. After being asked in writing on September 30, by videoconference on October 13, and in writing again on October 15 and 16, 2026 whether it will submit the transaction to the voters, the County, through its Mayor, Deputy Mayor, and County Attorney's Office, has not said that it will, and it continues to advance the land-use approvals the transaction requires under the authority it claims from Resolution R-1177-25.

138. The County continues to add further items relating to this transaction to its agendas after initial posting.

139. Plaintiffs do not ask the Court to restrain the Board from deliberating. They ask the Court to declare what Article 7 requires before the County commits the property, as Section 86.051 permits.

140. No provision of the Charter, Chapter 86, Florida Statutes, or other law makes pre-suit notice a condition precedent to this action, and Plaintiffs gave the notice voluntarily. To the extent any condition precedent applies, it has been performed, has occurred, or has been waived.

COUNT I
DECLARATORY JUDGMENT: SCOPE OF THE SEAQUARIUM EXEMPTION
(Against Defendant Miami-Dade County)

141. Plaintiffs reallege and incorporate paragraphs 1 through 140.

142. A bona fide, actual, present, and practical need for a declaration exists. The County contends that the Seaquarium exemption authorizes the proposed redevelopment without a referendum. Plaintiffs contend that the exemption protects the historically identifiable Seaquarium facility, including reasonable modernization, redevelopment, and genuinely ancillary uses, but is not a perpetual development entitlement extending to every future use or parcel the County may place within an amended lease. Asked in writing to confirm that it would not proceed without the referendum Article 7 requires, the County declined to do so.

143. The exemption sentence names identifiable facilities. Under the Charter's command that Article 7 "be liberally construed in favor of the preservation of all park lands, aquatic preserves, and preservation lands," the words "the Seaquarium" cannot be construed to permit the County to enlarge the exemption's functional or geographic scope by private contract.

144. The County's own prior construction of the exemption sentence confirms this reading. When the County sought to place private commercial uses on the park property surrounding Metro Zoo, a facility named in the same exemption sentence, it did not treat the exemption as extending to those uses. It determined, through the County Attorney's Office, that Article 7 required a countywide vote, obtained that vote before proceeding to land use and zoning approvals, and only then contracted with private operators. *See Exhibit A.*

145. The County cannot now construe the identical words "the Seaquarium" to exempt from Article 7 a private commercial marina on 56 acres of submerged land that was never part of the *Seaquarium*, a dry-stack storage building of approximately 692,000 square feet, and the hotel, retail, event and wellness program described in the applicant's filings, without a vote of any kind.

146. The Bankruptcy Court-approved transaction documents reinforce the factual distinction without deciding the Article 7 issue: they separately identify “the proposed marina and related uses, including the private operation of those elements” as a matter requiring resolution under the State Deed’s public-purpose restriction before Closing unless waived. The proposed marina is therefore not merely an unnamed modernization of the aquarium in the transaction documents themselves.

147. Plaintiffs are in doubt as to their rights under Article 7 and are entitled to a declaration under Sections 86.011 and 86.021, Florida Statutes.

WHEREFORE, Plaintiffs respectfully request a judgment:

- a. declaring that the Article 7 exemption for “the Seaquarium” protects the historically identifiable Seaquarium facility and its reasonable modernization, redevelopment, and genuinely ancillary uses;
- b. declaring that the Article 7 exemption for “the Seaquarium” does not exempt from Article 7 every use, structure, enterprise, or parcel the County may hereafter place within an amended Seaquarium lease;
- c. together with costs under Section 7.03 of the Charter and Section 86.081, Florida Statutes, and such further relief as is just.

COUNT II

DECLARATORY JUDGMENT: THE NINETY-NINE-YEAR AMENDED AND RESTATED LEASE REQUIRES VOTER APPROVAL (Against Defendant Miami-Dade County)

148. Plaintiffs reallege and incorporate paragraphs 1 through 140.

149. The existing lease has a current expiration date of November 26, 2044. *See Exhibit J.* The term sheet adopted with Resolution R-1177-25 provides that the proposed amended and

restated lease will expire ninety-nine years after its effective date and contemplates premises including “certain submerged lands.” *See Exhibit M.*

150. Section 7.02 commands that, subject to Article 7’s limited exceptions, there shall be no “renewals, expansions, or extensions of existing leases, licenses, or concessions to private parties of public park property” unless approved by the voters in a countywide referendum.

151. The proposed amended and restated lease is, on the face of the County’s own records, a renewal, expansion, or extension of an existing lease to a private party. It would replace a lease expiring in 2044 with a ninety-nine-year term and would authorize new lands and uses, including the proposed commercial marina, beyond the historically identifiable Seaquarium facility.

152. Prior extensions confined to the exempted *Seaquarium* facility do not resolve this controversy. The challenged transaction combines a new ninety-nine-year term with materially new private commercial uses and submerged lands that Plaintiffs allege are outside the facility exemption. In the alternative, if the amended and restated lease is characterized as a new lease rather than a renewal, expansion, or extension, its commitment of protected County property to private commercial use falls within the same referendum rule.

153. The same is true of any amendment to the existing Amended and Restated Lease that purports to add submerged lands to the demised premises or otherwise to extend the leasehold beyond the Bulkhead Line. However it is styled, such an amendment is a “lease, license, renewal, extension, concession or use” within Section 7.02 and is subject to the same referendum requirement.

154. Section 7.03 forecloses the County from escaping the referendum rule by the label it attaches to the instrument. The Charter directs that Article 7 “shall be liberally construed in favor of the preservation of all park lands, aquatic preserves, and preservation lands.”

155. Whether the transaction is styled a renewal, an expansion, an extension, an amendment and restatement, or a new lease, a construction that would allow a ninety-nine-year commitment of protected County property to new private commercial uses without a vote of the electors is the opposite of a liberal construction in favor of preservation.

156. The Assignment Agreement makes the Final MDC Board Approvals and execution of the Lease Amendment conditions precedent to Closing.

157. Accordingly, the Court can determine before Closing whether the County may lawfully furnish those approvals without the referendum Article 7 requires.

WHEREFORE, Plaintiffs respectfully request a judgment:

- a. declaring that the proposed amended and restated lease, insofar as it renews, expands, extends, or newly commits protected County property to the challenged non-exempt private commercial uses and lands, is subject to Article 7's referendum requirements; and
- b. declaring that Final MDC Board Approvals may not be issued, be executed, or be implemented absent the required voter approval or removal of the non-exempt components;
- c. together with costs and such further relief as is just.

COUNT III
**DECLARATORY JUDGMENT: SUBMERGED LANDS,
AQUATIC PRESERVES, AND THE TWO-THIRDS CLASS**
(Against Defendant Miami-Dade County)

158. Plaintiffs reallege and incorporate paragraphs 1 through 140.

159. Article 7 protects parks, aquatic preserves, and preservation lands as distinct categories. Virginia Key is enumerated by name in Section 7.02's natural-resource class, and the

same sentence independently extends the two-thirds referendum requirement to “aquatic preserves and preservation lands.”

160. The *Seaquarium* exemption is expressly limited to “[t]he restrictions applying to parks.” It is not phrased as a blanket exemption from Article 7 and does not state that restrictions applying to aquatic preserves or preservation lands are inapplicable to the *Seaquarium*.

161. To the extent the proposed marina occupies submerged lands within the Biscayne Bay Aquatic Preserve, those lands receive Article 7 protection in their own right as aquatic-preserve lands, and to the extent they are lands the County has designated for preservation, as preservation lands.

162. The County cannot enlarge a voter-created park-facility exemption into an aquatic preserve by adding submerged lands to a later lease exhibit.

163. Separately, to the extent submerged lands proposed for the marina were not part of the historically identifiable *Seaquarium* facility, the words “the Seaquarium” do not themselves exempt those lands.

164. Any structure, lease, extension, concession, or use upon such protected lands remains subject to Article 7 according to the lands’ legal classification.

165. If the County could enlarge a voter-created exemption’s geography by contract, the facility exemption could be made to swallow Article 7’s protections for surrounding public lands. The Charter’s express rule of liberal construction in favor of preservation forecloses that result.

WHEREFORE, Plaintiffs respectfully request a judgment:

- a. declaring that the Seaquarium facility exemption does not extend by contract to submerged lands outside the exempted facility or eliminate Article 7’s independent protections for aquatic preserves; and

- b. declaring that covered structures, leases, extensions, concessions, or uses upon such lands are subject to the referendum requirements applicable to their legal classification, including the two-thirds requirement where Section 7.02 so provides;
- c. together with costs and such further relief as is just.

COUNT IV
DECLARATORY JUDGMENT: THE COMMERCIAL MARINA
REQUIRES VOTER APPROVAL
(Brought In The Alternative Against Defendant Miami-Dade County)

166. Plaintiffs reallege and incorporate paragraphs 1 through 140.

167. In the alternative, and without limiting Counts I through III, the proposed marina is a new private commercial use and a material expansion of the proposed private leasehold within the meaning of Section 7.02's referendum rule.

168. If the affected lands fall within Section 7.02's natural-resource class or aquatic-preserve clause, the two-thirds requirement governs; otherwise the generally applicable referendum requirement governs.

169. Item D of Section 7.02 does not say "marinas." It says, "Facilities for marinas, sightseeing and fishing boats, visiting military vessels, and fishing."

170. Construing Item D as a blanket exemption for any new private commercial marina would render the words "Facilities for" superfluous and would allow the savings clause to consume the referendum rule.

171. Section 7.03 resolves any remaining doubt. Because Article 7 "shall be liberally construed in favor of the preservation of all park lands, aquatic preserves, and preservation lands," an exception to the referendum rule is read narrowly and the rule itself broadly.

172. Between a reading of Item D that preserves the electors' approval over a new private commercial marina on protected County property and one that eliminates it, the Charter directs the Court to the former.

173. Item D is also subject to the condition that governs the entire list: the listed facilities are permitted only "provided that there be no adverse impact to natural resources on lands acquired or designated for preservation by the Board of County Commissioners."

174. The Board designated the Seaquarium boat basin for preservation when it granted the State a perpetual conservation easement over it in 1991 (*see Exhibit F*), and the applicant's plans propose dredging in that basin (*see* ¶ 87), an activity the easement prohibits.

175. That designation was an act of the Board in 1991 and does not depend on the easement's present enforceability. By letter dated September 4, 2026, responding to a request for release of the easement, the Florida Department of Commerce expressed the opinion that the easement is "no longer applicable;" no release has been recorded, and the applicant's own Schedule 1 to the First Amendment lists a binding determination or release of easement as an unresolved condition to Closing. The Board has never withdrawn the designation.

176. The text is harmonized by giving each provision work to do: Item D permits facilities serving marina and related water-dependent recreational uses where otherwise lawful, while Article 7's referendum provisions continue to govern the creation, lease, concession, expansion, or other private commercial use of protected County property when those provisions otherwise apply.

177. That reading is reinforced by Article 7's specific protection of Black Point Marina. A construction under which Item D independently authorizes any new or expanded private commercial marina without voter approval would substantially diminish the Charter's express protection of Black Point Marina and the referendum rule governing waterfront park property.

178. The County's own 2000 practice supplies further corroboration. Through Resolution R-829-00, the County sought voter approval before permitting private food-service providers to renovate and operate existing restaurant facilities at existing County marinas, and the resulting Charter language is limited to existing facilities, existing square footage, competitive selection, and initial terms of no more than ten years.

179. If Item D already exempted private commercial marina operations and associated private uses from Article 7, the 2000 referendum would have been unnecessary for the far narrower activity of privately operating existing marina restaurants. R-829-00 is therefore consistent with the textual distinction between "Facilities for marinas" and an independently functioning private commercial marina.

180. The proposed marina's scale, separate customers, wet and dry berths, fueling infrastructure, and separately measured revenue demonstrate that it is not merely a discrete facility serving the historic *Seaquarium*. It is an independently functioning private commercial enterprise.

181. The companion zoning application asks the Board to approve the wet-slip marina on the submerged lands as an unusual use after public hearing (Application Z2026000106). That approval would be a discretionary Board approval of a new use of Virginia Key Park land and preservation land, which Section 7.02 reserves to the voters. The unusual use approval would be a Board approval of a "use" under Section 7.02 and the zoning hearing is not a substitute for a referendum vote.

WHEREFORE, Plaintiffs respectfully request a judgment:

- a. declaring that the proposed new, independently functioning private commercial marina is subject to Article 7's referendum requirements that may not receive Final MDC Board Approvals, be executed, or be implemented absent the required countywide vote;

- b. together with costs and such further relief as is just.

COUNT V
SUPPLEMENTAL RELIEF AND PERMANENT INJUNCTION UNDER
SECTION 86.061, FLORIDA STATUTES, AND SECTION 7.03 OF THE CHARTER
(Against Defendants Miami-Dade County and Resilient Aquarium LLC)

182. Plaintiffs reallege and incorporate paragraphs 1 through 140.

183. Section 7.03 authorizes citizen enforcement of Article 7 in this Court's general equity jurisdiction, and Section 26.012(3), Florida Statutes, empowers this Court to issue injunctions.

184. Absent an injunction, the County may furnish the Final MDC Board Approvals and execute the Lease Amendment and Assignment of Lease that are express conditions precedent to Closing, thereby permitting the Bankruptcy Court-approved transaction to close and committing protected County property to the challenged private commercial uses for a ninety-nine-year term without the referendum Plaintiffs allege the Charter requires.

185. Plaintiffs asked the County to preserve the *status quo* voluntarily pending a declaratory ruling; the County did not respond.

186. The right protected by Article 7 is the right to have the covered transaction approved by the electorate before the County commits the property.

187. Once Final MDC Board Approvals are given, the amended lease is executed, and Closing occurs, that right cannot be fully restored by money damages. Plaintiffs therefore have no adequate remedy at law.

188. Plaintiffs seek supplemental relief under Section 86.061, Florida Statutes, which provides that "[f]urther relief based on a declaratory judgment may be granted when necessary or proper," to enforce any declaration entered by this Court.

189. The requested injunction is narrow. It would restrain the County from giving Final MDC Board Approvals, executing the proposed amended and restated lease, approving the wet-slip marina as an unusual use in Application Z2026000106, or otherwise effectuating Closing only for so long as the transaction contains components adjudicated non-exempt under Article 7.

190. It would restrain Defendants from implementing, funding, permitting, constructing, or otherwise effectuating those non-exempt components unless and until the required referendum is held and approved or those components are removed from the transaction.

191. The requested relief would not restrain lawful redevelopment of the historic Seaquarium facility itself. Defendants remain free to pursue redevelopment within the lawful scope of the voter-created Seaquarium exemption. Nor do Plaintiffs seek to impair the existing Seaquarium lease: Section 7.03 provides that Article 7 “shall not be construed to illegally impair any previously existing valid written contractual commitments,” and the relief sought is directed to the proposed new transaction and non-exempt components that have not yet closed.

WHEREFORE, Plaintiffs respectfully request a permanent injunction restraining Defendant Miami-Dade County:

- a. from granting the Final MDC Board Approvals or executing the proposed amended and restated lease and Assignment of Lease necessary for Closing, or approving any amendment to the existing lease that expands the demised premises beyond the Bulkhead Line, or approving the wet-slip marina as an unusual use in Application Z2026000106, unless and until the components adjudicated non-exempt under Article 7 are approved by the voters in the referendum Article 7 requires or are removed from the transaction;
- b. consistent with Section 7.02’s bar on public money, publicly funded services in kind, and building permits or certificates of occupancy for a project that does not

- comply with Article 7, from implementing, funding, permitting, constructing, or otherwise effectuating those non-exempt components absent such approval; and
- c. granting costs and such further relief as is just and proper.

COUNT VI
**DECLARATORY JUDGMENT: THE NON-MARINA UPLAND
PROGRAM REQUIRES VOTER APPROVAL**
(Brought In The Alternative Against Miami-Dade County)

192. Plaintiffs reallege and incorporate paragraphs 1 through 140.

193. In the alternative, and independent of Counts III and IV, the proposed transaction would authorize on the upland Seaquarium site a program of private commercial uses that are neither the historically identifiable Seaquarium facility nor uses genuinely ancillary to it.

194. Application CDMP20260007 would create a “Seaquarium Activity Area Special District” whose stated purpose includes “ancillary commercial concessions,” and would permit wellness and relaxation facilities on up to seven upland acres; use of the Seaquarium Dome “as an amphitheater event space for public or private events”; additional event spaces “for public or private events”; retail uses; and food and beverage establishments and restaurants.

195. The application allows up to approximately 374,600 square feet of event space, 119,360 square feet of retail, and 117,300 square feet of food and beverage establishments, within a district of up to 2,366,106 square feet at a floor area ratio of 1.5.

196. The uses the County put to the voters in 2006 for the Metro Zoo property, a water park, a family entertainment center, retail, food and beverage establishments and a hotel on park land outside the animal attractions (*see Exhibit A*), are the same kinds of uses the County now proposes to approve on the *Seaquarium* site without a vote.

197. The applicant’s current site plan (Site Plan V5, October 6, 2026) shows a smaller program within those limits: approximately 74,583 square feet of event space, 19,348 square feet

of retail, and 46,000 square feet of food and beverage establishments, beside a marina dry-stack building of approximately 692,000 square feet. (**Exhibit U**). The entitlement the County would approve, however, is the district text and recorded Declaration of Restrictions, not the current drawing. The draft Declaration permits conversion among uses under an Equivalency Matrix, within a cap of 627 peak-hour trips, without further Board action, the property lease would run for ninety-nine years. What the County authorizes for that term is the program the CDMP text and Declaration permit.

198. The term sheet adopted with Resolution R-1177-25 and the project description in the Bankruptcy Court-approved Assignment Agreement describe the same program, including wellness spaces, a “marina/fisherman’s village with marine-oriented retail and food & beverage establishments,” and the Seaquarium Dome “repurposed as event space for public and private gatherings.” *See Exhibits J and M.*

199. When the electorate adopted Article 7, the *Seaquarium* was bound by a recorded Declaration of Restrictive Uses (Official Records Book 15669, Page 880) requiring its operation as a unified family attraction with a single entrance and a single admission, permitting the sale of alcoholic beverages only in connection with full-course meals, and limiting retail sales to items “related to the Seaquarium Village attractions and novelties, its water-related theme, and other items normally sold in conjunction with a family tourist attraction.” *See Exhibit G.*

200. The program described above differs from that facility in kind and in scale.

201. Section 7.02 requires approval by two-thirds of the voters in a countywide referendum for any “structure, lease, license, renewal, extension, concession or use” on Virginia Key, prohibits private commercial use of a public park except as the Article allows, and provides that “[n]o park facilities, golf courses, or County lands acquired for preservation shall be converted to or used for non-park offices, purposes, or uses.”

202. Section 7.01 further provides that in parks along the Bay “the public’s access to and view of the water shall not be obstructed or impaired by buildings or other structures or concessions which are in excess of 1500 square feet each.”

203. In 2000 the County sought and obtained voter approval merely to permit private operators to renovate and operate existing restaurants at existing marinas and golf courses, at their existing square footage.

204. Under Section 7.03’s command that Article 7 be liberally construed in favor of preservation, the exemption for “the Seaquarium” does not reach a regional private events, retail, food-and-beverage, and wellness district that functions independently of the aquarium.

205. A bona fide, actual, and present need for a declaration exists. The County contends that the entire program is exempt; Plaintiffs contend that the components described in ¶ 197 to the extent they are not genuinely ancillary to the historic facility, require voter approval.

206. Plaintiffs are in doubt as to their rights under Article 7 and are entitled to a declaration under Sections 86.011 and 86.021, Florida Statutes.

WHEREFORE, Plaintiffs respectfully request a judgment:

a. declaring that the wellness, private event, retail, and food-and-beverage components of the proposed transaction, to the extent they are not genuinely ancillary to the historically identifiable Seaquarium facility, are subject to Article 7’s referendum requirements; and

b. declaring that Final MDC Board Approvals may not be issued, be executed, or be implemented absent the required voter approval;

c. together with costs under Section 7.03 of the Charter and Section 86.081, Florida Statutes, and such further relief as is just.

COUNT VII
DECLARATORY JUDGMENT: THE RELEASE OF THE 1992 DECLARATION
DOES NOT ENLARGE THE SEAQUARIUM EXEMPTION
(Against Defendant Miami-Dade County)

207. Plaintiffs reallege and incorporate paragraphs 1 through 140 and 191 to 199 above.

208. Plaintiffs bring this Count as citizens of Miami-Dade County under Section 7.03 of the Charter, which provides that the provisions of Article 7 “may be enforced by a citizen alleging a violation of this Article.” Plaintiffs do not sue to enforce the Declaration of Restrictive Uses as parties to it, and they claim no contractual right under it. Plaintiffs challenge an act of the County: the recording by County staff of an instrument purporting to release a covenant that runs in favor of the County, and the County's reliance on that instrument to treat the Seaquarium exemption in Section 7.02 as reaching uses the Declaration excluded.

209. The Declaration is not a private agreement. It was proffered to and accepted by the County as a condition of the zoning approvals for the *Seaquarium* site, it runs in favor of the County, and by its own terms (paragraph 7) it may be released only by an instrument “also approved by the Board of County Commissioners.” *See Exhibit G.* A restriction accepted by the County as a condition of a public approval of park land, and the County’s own requirement that any release be approved by the Board, exists for the benefit of the public, not of the parties alone. Whether the County may set that restriction aside without the Board approval the Declaration requires and thereby enlarge the use that the Charter exempts from a vote, is a question about the County’s compliance with Article 7, which Section 7.03 entitles any citizen to raise.

210. By letter dated December 19, 2025, counsel for RAL asked the Department of Regulatory and Economic Resources to release the Declaration “administratively,” relying on Section 4 of Resolution R-1177-25 and describing the release as “merely ministerial.” (**Exhibit V**).

211. Section 4 authorizes the County Mayor or designee to execute “applications or requests, joinders, agreements, instruments and/or releases associated with the development contemplated by the term sheet.” Resolution R-1177-25 does not mention the Declaration.

212. On February 24, 2026, an Assistant Director of the Department of Regulatory and Economic Resources recorded an instrument styled REL-3-26 (Official Records Book 35175, Page 1280), declaring the Declaration “of no further legal effect and null and void.” REL-3-26 recites no action of the Board. (**Exhibit H**).

213. On October 13, 2026, the applicant filed in Application Z2026000106 a third amended letter of intent that asks the Board, as a new request, to “ratify” REL-3-26. The applicant has thus itself sought the Board approval that paragraph 7 of the Declaration requires and that REL-3-26 lacks.

214. Plaintiffs’ pre-suit notice asked the County to identify any Board approval of the release (**Exhibit P**); the County has not done so.

215. Upon information and belief, the Board has taken no action approving the release.

216. A general delegation to execute instruments associated with a development program is not the Board approval that paragraph 7 requires.

217. The release removed recorded limits on the uses that defined the historic *Seaquarium* facility, in aid of the non-exempt components challenged in this action, and the County may not rely on it to enlarge the Seaquarium exemption. Section 7.02 forbids the County to expend public money or provide publicly funded services in kind to a project that does not comply with Article 7; an administrative release recorded in aid of such a project is likewise beyond the County’s authority under the Charter.

218. The controversy is actual and present. The release is recorded (Official Records Book 35175, Page 1280) (**Exhibit H**) and the County and the applicant rely on it: the applicant’s

October 13, 2026 letter of intent asks the Board to “ratify” the release, acknowledging that Board approval is required and has not been given, and the County has advanced the land use and zoning applications on the premise that the single-admission limitation no longer applies. Plaintiffs, as citizens and as residents who use Virginia Key, are entitled to a declaration under Sections 86.011 and 86.021, Florida Statutes, and Section 7.03 of the Charter, whether they are parties to the Declaration.

WHEREFORE, Plaintiffs respectfully request a judgment:

- a. declaring that the instrument recorded at Official Records Book 35175, Page 1280 (REL-3-26) does not enlarge the scope of the Seaquarium exemption under Article 7 and may not be relied upon by the County to authorize the non-exempt components challenged in this action;
- b. declaring that REL-3-26 was not approved by the Board of County Commissioners as paragraph 7 of the Declaration of Restrictive Uses recorded at Official Records Book 15669, Page 880 expressly requires;
- c. together with costs under Section 7.03 of the Charter and Section 86.081, Florida Statutes, and such further relief as is just.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment granting the declaratory, supplemental, and injunctive relief requested in Counts I through VII, award Plaintiffs costs under Section 7.03 of the Charter and Section 86.081, Florida Statutes, and grant such other and further relief as the Court deems just and proper.

Dated: October 21, 2026

Respectfully submitted,

HABER LAW, LLP
251 NW 23rd Street
Miami, Florida 33127
Telephone: (305) 379-2400

Facsimile: (305) 379-1106
service@haber.law

By: /s/ *Darrin Gursky, Esq.*

DARRIN GURSKY, ESQ.

Florida Bar No. 606251

dgursky@haber.law

aariza@haber.law

ARIELLA GUTMAN, ESQ.

Florida Bar No. 91447

agutman@haber.law

drodriguez@haber.law

MELISSA L. MACKIEWICZ, ESQ.

Florida Bar No. 0637971

mmackiewicz@haber.law

jlewin@haber.law