

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
Fort Lauderdale Division

In re:

Case No. 18-12193-RBR

550 SEABREEZE DEVELOPMENT LLC.

Chapter 11

*Debtor.*

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JINHONG WANG, ZUOYANG WANG,  
JIANFA XIE, PINGNING GUO, TAO ZHANG,  
YE TIAN, LIE LIN, XIA CAO, LIN MA,  
TONG WANG, PENGXIANG NI, CHUNYAN  
XU, RUI WANG, YI LIU, YUESHENG QIN,  
JIANFENG HUANG, YUEE QING, ZHIWEN  
YANG, ZUOLING HUANG, PEIHUA YANG,  
and LIANSHAN JIA,

Adv. Pro. No 18-\_\_\_\_-RBR

*Plaintiffs,*

v.

LAS OLAS MEZZANINE BORROWER LLC,  
RAY PARELLO, KEN BERNSTEIN, JACK  
KESSLER, EUGENE KESSLER, THE  
BANCORP BANK, and OCEAN HOTEL  
LENDER LLC,

*Defendants.*

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**COMPLAINT AND OBJECTIONS TO PROOFS OF CLAIM**

Plaintiffs, Jinhong Wang, Zuoyang Wang, Jianfa Xie, Pingning Guo, Tao Zhang, Ye Tian, Lie Lin, Xia Cao, Lin Ma, Tong Wang, Pengxiang Ni, Chunyan Xu, Rui Wang, Yi Liu, Yuesheng Qin, Jianfeng Huang, Yuee Qing, Zhiwen Yang, Zuoling Huang, Peihua Yang, and Lianshan Jia (collectively, the “EB-5 Creditors”), sue Las Olas Mezzanine Borrower LLC (“Mezzanine Borrower”), Raymond Parello (“Parello”), Ken Bernstein (“Bernstein”), Jack Kessler (“J.

Kessler”), Eugene Kessler (“E. Kessler”), The Bancorp Bank (“Bancorp”), and Ocean Hotel Lender LLC (“OHL”), and state as follows:

**INTRODUCTORY STATEMENT**

1. The EB-5 Creditors bring this adversary proceeding to recover money damages against the parent company of the Debtor, Mezzanine Borrower, and the principals of Mezzanine Borrower, Parello, Bernstein, J. Kessler, and E. Kessler (collectively, “Developer Group”) and Bancorp for their fraudulent scheme to induce the EB-5 Creditors to each invest \$500,000 in the Seabreeze project. Bancorp’s interest in the Seabreeze project, a claim secured by real and personal property of the Debtor, has been assigned to OHL. Therefore, the EB-5 Creditors bring an equitable subordination claim against OHL, as successor to Bancorp, to subordinate OHL’s claims in the Debtor’s estate to the claims of the EB-5 Creditors based on the following conduct of Bancorp prior to the assignment of its secured claim to OHL: (a) at a time when Bancorp was in control of the Debtor and, therefore, was an insider of the Debtor, it engaged in unfair and inequitable conduct in connection with representations made to the EB-5 Creditors that caused harm to the EB-5 Creditors to the extent of their claims in the Debtor’s estate; or (b) Bancorp engaged in egregious conduct by defrauding the EB-5 Creditors that caused harm to the EB-5 Creditors to the extent of their claims in the Debtor’s estate. The EB-5 Creditors also seek to equitably subordinate the claims of the Developer Group.

**JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction over this proceeding pursuant to 28 U.S.C. § 1334(b). The equitable subordination claim against OHL and the Developer Group is a core proceeding under 28 U.S.C. § 157(b)(2)(B), (K) and (O). The damages claims against Mezzanine Borrower, Bancorp, Parello, Bernstein, J. Kessler, and E. Kessler are non-core

proceedings that are otherwise related to the Debtor's bankruptcy because of their relationship to proofs of claim filed by the EB-5 Creditors against the estate, the Debtor's role in the underlying allegations, the relief these claims seek against the parent and principals of the Debtor, and because the EB-5 Creditors seek joint and several liability against Debtor for these same claims. Therefore, the Court has subject matter jurisdiction over these claims under 28 U.S.C. § 157(c)(1).

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1409(a).

### **THE PARTIES**

4. Xia Cao is a citizen of the People's Republic of China who resides in Sugar Land, Texas, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

5. Pingning Guo is a citizen of the People's Republic of China who resides in Irvine, California, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

6. Jianfeng Huang is a citizen of the People's Republic of China who resides in Zhejiang, China, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

7. Zuoling Huang is a citizen of the People's Republic of China who resides in Wilmington, California, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

8. Lianshan Jia is a citizen of the People's Republic of China who resides in Allston, Massachusetts, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

9. Lie Lin is a citizen of the People's Republic of China who resides in Jupiter, Florida, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

10. Yi Liu is a citizen of the People's Republic of China who resides in Boulder, Colorado, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

11. Lin Ma is a citizen of the People's Republic of China who resides in Sunnyvale, California, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

12. Pengxiang Ni is a citizen of the People's Republic of China who resides in Bellevue, Washington, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

13. Yuesheng Qin is a citizen of the People's Republic of China who resides in Renton, Washington, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

14. Yuee Qing is a citizen of the People's Republic of China who resides in Chino Hills, California, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

15. Ye Tian is a citizen of the People's Republic of China who resides in Bothell, Washington, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

16. Jinghong Wang is a citizen of the People's Republic of China who resides in Potomac, Maryland, and has timely filed an unsecured claim in the principal amount of

\$500,000.00 in the Debtor's estate.

17. Rui Wang is a citizen of the People's Republic of China who resides in Somerville, Massachusetts, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

18. Tong Wang is a citizen of the People's Republic of China who resides in Carmel, Indiana, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

19. Zuoyang Wang is a citizen of the People's Republic of China who resides in Cleveland, Ohio, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

20. Jianfa Xie is a citizen of the People's Republic of China who resides in Irvine, California, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

21. Chunyan Xu is a citizen of the People's Republic of China who resides in Cary, North Carolina, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

22. Peihua Yang is a citizen of the People's Republic of China who resides in Rancho Santa Margarita, California, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

23. Zhiwen Yang is a citizen of the People's Republic of China who resides in Sammamish, Washington, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

24. Tao Zhang is a citizen of the People's Republic of China who resides in Irvine, California, and has timely filed an unsecured claim in the principal amount of \$500,000.00 in the Debtor's estate.

25. Mezzanine Borrower is a Florida limited liability company with its principal place of business in Broward, Florida, and is the parent company of Debtor.

26. Parello is a citizen of the State of Florida. He is a natural person over the age of 21 and otherwise *sui juris*. On July 3, 2018, Parello filed Claim #60 against the Debtor's estate.

27. Bernstein is a citizen of the State of Florida. He is a natural person over the age of 21 and otherwise *sui juris*. On July 2, 2018, Bernstein filed Claim #55 against the Debtor's estate.

28. J. Kessler is a citizen of the State of Florida. He is a natural person over the age of 21 and otherwise *sui juris*. On July 2, 2018, J. Kessler filed Claim #56 against the Debtor's estate.

29. E. Kessler is a citizen of the State of Florida. He is a natural person over the age of 21 and otherwise *sui juris*. On July 2, 2018, E. Kessler filed Claim #57 against the Debtor's estate.

30. Parello, Bernstein, J. Kessler, and E. Kessler, through a series of partnerships and limited liability companies, own and control Mezzanine Borrower, which, in turn, owns and controls Debtor.

31. Bancorp is a Delaware state-chartered bank corporation with its principal place of business in Wilmington, Delaware. On June 28, 2018, Bancorp filed Amended Claim #23-2 (the "Amended Claim") against the Debtor's estate.

32. OHL is a Delaware limited liability company. On June 28, 2018, Bancorp assigned the Amended Claim to OHL and, on July 3, 2018, filed notice thereof. [See Bankr. ECF No. 86].

33. Plaintiffs are joined in this action because they assert rights to relief jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences alleged and any questions of law or fact is common to all plaintiffs will arise in the action. Defendants are joined in this action because any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences alleged and any question of law or fact common to all defendants will arise in the action.

#### **THE SOLICITATION AND PURPORTED INVESTMENT STRUCTURE**

34. The “Seabreeze Project” is a partially-developed resort hotel located at 550 Seabreeze Boulevard, Fort Lauderdale, Florida, and is the Debtor’s only meaningful asset.

35. The Developer Group obtained initial financing for the Seabreeze Project from Bancorp in the form of a \$21.5 million loan. Subsequently, the Developer Group sought additional financing through two primary and interrelated sources: (i) an increase of the Bancorp loan, and (ii) a loan from Las Olas Ocean Resort Partners, LP (the “Mezzanine Lender”), which was funded by 60 individual foreign investors participating in the U.S. government’s EB-5 immigrant visa program (the “EB-5 Program”). As discussed below, the increase of the Bancorp loan was conditioned upon the EB-5 fund raising.

36. The EB-5 Program, administered by the U.S. Citizenship and Immigration Services (“USCIS”), permits qualified foreign investors to obtain U.S. lawful permanent residence by investing in a commercial enterprise that meets certain qualifications, including

creating or preserving at least ten jobs per investor.

37. In 2012, the Developer Group, operating through Parello, J. Kessler, E. Kessler, and Bernstein, began soliciting investors interested in participating in the EB-5 Program to raise money for the development of the Seabreeze Project (although pitched to the EB-5 Creditors as the “Las Olas Ocean Resort”).

38. To facilitate the EB-5 capital raising, the Developer Group created the Mezzanine Lender as the entity to do the offering and solicit the EB-5 investments. As controlling principals, Parello, J. Kessler, E. Kessler and Bernstein controlled the EB-5 offering process.

39. In connection with the EB-5 offering, the Mezzanine Lender prepared and issued offering documents for the Project, including a Private Placement Memorandum (the “PPM”), a Limited Partnership Agreement and a Subscription Agreement, as well as marketing brochures, PowerPoint presentations and other marketing materials.

40. The Developer Group reviewed and approved the offering documents and the marketing materials used for the Project and disseminated these documents to potential EB-5 investors, including EB-5 Creditors, to solicit investments.

41. E. Kessler represented himself to the EB-5 Creditors as being the “Owner/Partner” for the Seabreeze Project.

42. J. Kessler represented himself to the EB-5 Creditors as being the “Legal Counselor” for the Seabreeze Project.

43. Bernstein represented himself to the EB-5 Creditors as being the “General Counselor” for the Seabreeze Project.

44. Parello represented himself to the EB-5 Creditors as being the “Director of Finance” for the Seabreeze Project.



45. At the same time the Developer Group sought to raise EB-5 capital, the Developer Group also sought to increase the existing loan amount from Bancorp.

46. Bancorp agreed to increase the loan amount to the Developer Group for the Seabreeze Project in the form of a new \$50 million construction loan, but made such an increase expressly contingent on the Developer Group raising over \$15 million “in sold, confirmed and funded EB-5 subscriptions.” Bancorp even acknowledged that the Seabreeze Project was to be managed in accordance with the requirements of the EB-5 Program. A copy of Bancorp’s May 31, 2012 correspondence to Parello (the “May 31 Letter”) agreeing that the Project would be funded by EB-5 investors is attached hereto as **Exhibit One**.

47. In Exhibit A to the May 31 Letter, Bancorp, to encourage EB-5 investor participation in the Project, described a provision it would include in the loan documents to protect the EB-5 Creditors from a loan monetary default by the Debtor and on which the EB-5 Creditors relied:

In the event of an uncured monetary default by Seabreeze Development Corp, LLC, the Bank is amenable to releasing one (1) unit to each EB-5 investor up to a total of sixty (60) units of the proposed total of one hundred thirty-nine (139) to be constructed. Each EB-5 investor will be responsible for all closing costs (title, transfer taxes, etc.) as applicable to effectuate such transfer.

48. Later, on July 16, 2012, Bancorp sent another letter (the “July 16 Letter”) to Parello on which the EB-5 Creditors relied which underscored the protection for the EB-5 investors that would be included in Bancorp’s loan documents:

Per our recent conversation, I am writing to clarify the point (the asterisk footnote regarding the event of an uncured monetary default of the Seabreeze Development Corp, LLC) on the proposed structure of the construction financing. It is, indeed, The Bancorp Bank’s intent to include this provision (that each EB-5 investor shall be entitled to one (1) unit up to sixty (60) units of the one-

hundred thirty-six (136) units to be constructed) in all of our future term sheets and final loan documentation. (Emphasis Added.)

A copy of the letter is attached as **Exhibit Two**.

49. Put differently, Bancorp represented that the EB-5 Creditors' investment would be protected in the event that Debtor failed to pay on its loan and reiterated its intent to include such a provision. Bancorp agreed that, in the event of an uncured monetary default by the Debtor, "each EB-5 investor shall be entitled to one (1) unit up to sixty (60) units of the one-hundred thirty-six (136) units to be constructed." The sixty units that Bancorp would release from its collateral base was no coincidence. The EB-5 component of the deal was \$30 million, which was raised by soliciting 60 foreign investors to invest \$500,000 each.

50. Bancorp made these representations knowing and intending that they would be shown to the EB-5 Creditors as part of the Developer Group's EB-5 fundraising.

51. Indeed, the Developer Group included the representations from Bancorp regarding the sixty units in the presentations they used to solicit the EB-5 Creditors. A copy of the solicitation presentation shown to the EB-5 Creditors and on which they relied is attached hereto as **Exhibit Three**.

52. In the process of soliciting the EB-5 investments, the Developer Group disseminated the May 31 Letter and July 16 Letter to the EB-5 Creditors. Indeed, a centerpiece of the Developer Group's pitch was the protection of the EB-5 Creditors' investment in the event the Debtor failed to perform its monetary obligations on its construction loan.

53. To provide an added sense of false comfort to the EB-5 Creditors and as a further inducement to get them to invest, the Developer Group issued a letter on "Las Olas Ocean Resort" letterhead purporting to confer upon the EB-5 Creditors a right to terminate their investments and receive a full refund if they were not provided the hotel units as collateral. The

letter thus states that the investors could terminate their subscription agreement or limited partnership interest and receive a full refund of the \$500,000 investment amount and \$50,000 administrative fee if, “[i]n the event of an uncured monetary default of the Borrower’s construction financing, the investor will not have an enforceable first position security interest in at least one hotel room in the hotel project.”

54. This purported refund right was illusory and known to be illusory by the Developer Group, and was only conveyed to the EB-5 Creditors to falsely assure them they had the required investment protection. What the Developer Group did not state was that the Bancorp loan documents *would not* and, in fact, eventually did not include the promised provisions. This letter, signed by Parelo, is attached hereto as **Exhibit Four**.

55. Based on these clear representations by Bancorp and the Developer Group, the EB-5 Creditors reasonably thought that should Debtor incur a monetary default on Bancorp’s senior loan, as was eventually the case, they would each have one unit in the project as security for their investment.

56. In reliance on the above representations, the EB-5 Creditors invested \$500,000 each in Mezzanine Lender, a Florida limited partnership.

57. The Mezzanine Lender in turn loaned the sum of the EB-5 investors’ proceeds (*i.e.*, \$30 million total and \$10.5 million from EB-5 Creditors) to Mezzanine Borrower (the “EB-5 Loan”), which then used those funds as capital contributions to the Debtor.

58. However, Bancorp never intended to release units in the Seabreeze Project to the EB-5 Creditors in the event of an uncured monetary default by Debtor and never intended to include such a provision in its loan documents. Nor did Bancorp or the Developer Group advise the EB-5 Creditors that the loan documents did not include such a provision.

59. Similarly, the Developer Group never intended that the EB-5 Creditors would get a unit of the Seabreeze Project if there were a monetary default on the Bancorp construction loan prior to completion of construction. Instead, Bancorp and the Developer Group issued these letters to the EB-5 Creditors to induce their investment in the Seabreeze Project.

60. Confirming the falsity of their representations and actions, when the loan between Bancorp and Debtor (the “Bancorp Loan”) was closed, the Bancorp Loan documents were deliberately drafted so that Bancorp would only release the sixty units to the Mezzanine Lender upon the occurrence of nine additional conditions not included in the letters given to the EB-5 Creditors, the most significant being that the Project had completed and a permanent certificate of occupancy issued to it. This added condition for release of units to the EB-5 Creditors made Bancorp’s investor protection promises in its letters nearly meaningless and thereby drastically reduced Bancorp’s credit risk.

61. These conditions were never disclosed to the EB-5 Creditors despite being contrary to the representations made to them and on which they relied in making their investment.

62. While all other parties to the Bancorp Loan were represented by counsel, the Developer Group permitted the Bancorp Loan to close without any legal representation for the Mezzanine Lender, thus ensuring that the Mezzanine Lender’s interests, and ultimately the interests of the EB-5 Creditors, were not protected.

63. The fraud committed against the EB-5 Creditors was compounded by the Developer Group’s other actions and omissions that left the EB-5 Creditors further exposed to a default by the Debtor.

64. As part of the EB-5 Loan documents, the Mezzanine Borrower granted a first priority security interest in all of its equity interests in the Debtor to the Mezzanine Lender (the “Pledge”). However, to be properly perfected under legal requirements, the Pledge needed to be recorded.

65. The Developer Group deliberately failed to have the Pledge recorded to perfect the Mezzanine Lender’s security interest over the Mezzanine Borrower’s equity interests in the Debtor.

66. The Developer Group never informed the EB-5 Creditors that they would not have the hotel units as collateral as represented or that the Pledge had not been recorded. The Developer Group never informed the EB-5 Creditors that these obstacles could (and, in fact, would) impede their ability to safeguard their investment. Nor did the Developer Group provide the EB-5 Creditors with a copy of the executed Bancorp Loan or EB-5 Loan documents.

67. In reliance on these misrepresentations and omissions, the EB-5 Creditors each invested their \$500,000 in the Mezzanine Lender to become a limited partner and, because they were not told that the Bancorp Loan documents eliminated (or never contained) their right to a unit as protection against a pre-completion monetary default, they did not exercise their right as set forth in the letter issued by the Developer Group to cancel the investment.

68. The EB-5 Creditors would not have invested in the Mezzanine Lender had they known that, in the event of a default prior to completion of construction, Bancorp would not release the sixty units to the Mezzanine Lender to satisfy the repayment of the EB-5 Loan.

69. Bancorp benefitted from this scheme by ensuring that the project it was funding would have substantial capital investment from the EB-5 Creditors thereby minimizing Bancorp’s credit risk.

70. The Developer Group benefitted from this scheme by obtaining funds from the EB-5 Creditors to capitalize the Seabreeze Project.

71. All told, the EB-5 Creditors were duped into believing their investments in the Mezzanine Lender would be protected from a monetary default on the Bancorp Loan through Bancorp's obligation to release its lien from sixty units in the project and through Mezzanine Borrower's pledge of its equity interest in the Debtor.

72. Based on the fraud as set forth herein, the EB-5 Creditors in fact were left without any protection in the event of such default other than through resort to the judicial process, necessitating this Complaint.

#### **THE PROJECT FAILS**

73. Unknown to the EB-5 Creditors, the Seabreeze Project suffered heavily from the Developer Group's mismanagement.

74. The Seabreeze Project, which was scheduled for a March 2017 completion date, will likely require over one year of construction and many millions of dollars more in funding to complete it.

75. In late 2017, the Debtor defaulted on the Bancorp Loan by, among other things, failing to pay Bancorp interest payments due on the Bancorp Loan.

76. In furtherance of the Developer Group's indifference toward the EB-5 Creditors, the Developer Group approached Bancorp with a purported plan to eliminate the \$30 million EB-5 Loan through a pre-packaged bankruptcy or other restructuring scheme, which would leave the EB-5 Creditors with no recourse.

77. In January 2018, Bancorp filed a foreclosure action against the Debtor captioned: *The Bancorp Bank v. 550 Seabreeze Development LLC et al.*, No. 0:18-cv-60171-RNS (S.D.

Fla.) (the “Foreclosure Action”).

78. On the eve of Bancorp’s hearing on its motion to appoint a receiver over the Seabreeze Project, the Debtor filed for relief under Chapter 11 of the Bankruptcy Code.

79. It was not until Bancorp filed the Foreclosure Action and the EB-5 Creditors hired undersigned counsel to evaluate their rights in connection with the Seabreeze Project that the EB-5 Creditors discovered that their investments in the Mezzanine Lender were not as represented.

80. Bancorp then assigned the Amended Claim to OHL, which now stands in the shoes of Bancorp for purposes of the EB-5 Creditors’ equitable subordination claim.

81. As a result of the Debtor’s actions alleged herein, the EB-5 Creditors filed Claim #s 32–34, 36–46, and 48–54 in this case.

**COUNT I – FRAUD IN THE INDUCEMENT**  
**(Against the Developer Group & Bancorp)**

82. The EB-5 Creditors re-allege and incorporate paragraphs 1-81 above as if fully set forth herein.

83. The Developer Group and Bancorp made misrepresentations to the EB-5 Creditors regarding the nature of their investment in the Mezzanine Lender. Specifically, Bancorp and the Developer Group issued letters to the EB-5 Creditors representing that the Bancorp Loan would provide for one unit of the Seabreeze Project to each EB-5 Creditor in the event of an uncured monetary default by the Debtor.

84. The Developer Group and Bancorp did not intend to document the Bancorp Loan in accordance with the representations made to the EB-5 Creditors about investment protections they would be afforded if there were a monetary default on the Bancorp Loan and on which they relied and, in fact, did not provide terms in the Bancorp Loan as represented. Thus, the

representations to the EB-5 Creditors were false and the Developer Group and Bancorp knew they were false.

85. These representations were material to the EB-5 Creditors' decision to invest in the Mezzanine Lender because they involved the EB-5 Creditors' protections in the event of default.

86. Despite knowing that these representations were false and that the EB-5 Creditors would rely on them in making their decision to invest in the Mezzanine Lender, the Developer Group and Bancorp never provided the EB-5 Creditors with a copy of the executed Bancorp Loan documents or otherwise advised them that the Bancorp Loan documents were not drafted or executed as represented.

87. The EB-5 Creditors relied on the representations from Bancorp and the Developer Group and invested in the Mezzanine Lender.

88. After the EB-5 Creditors made their investments, the Developer Group and Bancorp had a duty to disclose that the Bancorp Loan documents as drafted or executed did not provide them the investment protection as represented. Their failure to do so constitutes a material omission on which the EB-5 Creditors relied. Had the Developer Group and Bancorp provided this information, the EB-5 Creditors would have exercised their right to cancel their investments and to receive a full refund.

89. The Developer Group and Bancorp intended for the EB-5 Creditors to rely on these misrepresentations and omissions to ensure sufficient fundraising for the Seabreeze Project while also maximizing their interests in the project in the event of default.

90. As a result of the Developer Group and Bancorp's fraudulent misrepresentations and omissions directed at the EB-5 Creditors, the EB-5 Creditors were damaged because they invested their funds in a venture they thought would provide protection against Debtor's default



and, now that Debtor and thus the Seabreeze Project is in bankruptcy, face the possibility that their investments in the Mezzanine Lender may be rendered worthless and lose their eligibility for permanent residency in the United States.

**WHEREFORE**, the EB-5 Creditors demand judgment against the Developer Group and Bancorp for compensatory damages, together with interest at the maximum rate allowable, along with such other relief the Court deems just and proper.

**COUNT II – CIVIL CONSPIRACY**  
**(Against Developer Group & Bancorp)**

91. The EB-5 Creditors re-allege and incorporate paragraphs 1-81 above as if fully set forth herein.

92. The Developer Group, acting through Parello, J. Kessler, E. Kessler, and Bernstein, and Bancorp, conspired to defraud the EB-5 Creditors into believing their investment in the Mezzanine Lender would be secured, in part, by a unit in the Seabreeze Project. The Developer Group and Bancorp did this to ensure sufficient fundraising for the Seabreeze Project while also maximizing their interests in the project in the event of default.

93. The Developer Group, acting through Parello, J. Kessler, E. Kessler, and Bernstein, acted in furtherance of the conspiracy by disseminating the misleading letters issued by Bancorp and the Developer Group, emphasizing such misrepresentations, actively soliciting the EB-5 Creditors' funds using those misrepresentations, receiving and spending the EB-5 Creditors' funds, and by drafting and executing the Bancorp Loan documents that did not contain the provisions as represented to the EB-5 Creditors.

94. Bancorp acted in furtherance of the conspiracy by issuing the May 31 Letter and the July 16 Letter and then changing the terms of the Bancorp Loan documents that were executed to materially reduce or eliminate the EB-5 Creditors' investment protection.

95. As a result of the Developer Group and Bancorp's conspiracy to defraud the EB-5 Creditors, the EB-5 Creditors were damaged because they invested their funds in a venture they thought would provide some protection against Debtor's monetary default and, now that Debtor and thus the Seabreeze Project is in bankruptcy, face the possibility that their investments in the Mezzanine Lender may be rendered worthless and lose their eligibility for permanent residency in the United States.

**WHEREFORE**, the EB-5 Creditors demand judgment against the Developer Group and Bancorp for compensatory damages, together with interest at the maximum rate allowable, along with such other relief the Court deems just and proper.

**COUNT III - AIDING AND ABETTING FRAUD**  
**(Against Bancorp)**

96. The EB-5 Creditors re-allege and incorporate paragraphs 1-81 above as if fully set forth herein.

97. The Developer Group, acting through Parello, J. Kessler, E. Kessler, and Bernstein, and Bancorp, defrauded the EB-5 Creditors into believing their investment in the Mezzanine Lender would be secured, in part, by a unit in the Seabreeze Project. The Developer Group and Bancorp did this to ensure sufficient fundraising for the Seabreeze Project while also maximizing their interests in the project in the event of default.

98. Bancorp thus had actual knowledge that the Developer Group sought to defraud the EB-5 Creditors by tricking them into investing in the Mezzanine Lender.

99. Bancorp provided substantial assistance to the Developer Group by providing Parello, J. Kessler, E. Kessler, and Bernstein the May 31 Letter and July 16 Letter with the intent and understanding that such correspondence would be shown to the EB-5 Creditors to encourage them to invest in the Mezzanine Lender.

100. Without these clear representations from Bancorp (the proposed secured lender), the Developer Group's plan to defraud the EB-5 Creditors would not have worked.

101. As a result of the Developer Group and Bancorp's scheme to defraud the EB-5 Creditors, and Bancorp's assistance in furtherance thereof, the EB-5 Creditors were damaged because they invested their funds in a venture they thought would provide protection against Debtor's default and, now that Debtor and thus the Seabreeze Project is in bankruptcy, face the possibility that their investments in the Mezzanine Lender may be rendered worthless and lose their eligibility for permanent residency in the United States.

**WHEREFORE**, the EB-5 Creditors demand judgment against Bancorp for compensatory damages, together with interest at the maximum rate allowable, along with such other relief the Court deems just and proper.

**COUNT IV – EQUITABLE SUBORDINATION; OBJECTION TO CLAIMS**  
**(Against Developer Group and OHL)**

102. The EB-5 Creditors re-allege and incorporate paragraphs 1-81 above as if fully set forth herein.

103. OHL is the holder, as Bancorp's assignee, of the Amended Claim (*i.e.*, Claim #23-2).

104. The Developer Group filed Claims #55, 56, 57 and 60.

105. Bancorp filed the Amended Claim based on the indebtedness owed by the Debtor to Bancorp under the Loan.

106. Bancorp exercised a position of influence and control over the Debtor since before the Seabreeze Project commenced. Specifically, Bancorp made its Bancorp Loan subject to the Developer Group raising funds from the EB-5 Creditors and participated in the representations that helped the Developer Group raise the EB-5 Creditors' investment funds. Such control by

Bancorp made it an insider of the Debtor. In addition, Bancorp and the Developer Group were *de facto* partners (with Bancorp having more bargaining leverage) in seeking and obtaining the \$30 million financing through the EB-5 offerings to protect their joint and respective interests while ensuring funding for the Seabreeze Project.

107. Bancorp made the Bancorp Loan knowing that it was not as represented to the EB-5 Creditors and knowing that the EB-5 Creditors' funds would be used in the Project, mitigating Bancorp's credit risk.

108. During the course of construction, Bancorp also exercised control over the use of funds from the Mezzanine Lender and from its Bancorp Loan, as well as the progress at the Seabreeze Project. Since at least June 2015, Bancorp had a dedicated consultant for the Seabreeze Project who would, for example, meet with the Developer Group and contractors, inspect the property, and review draw requests.

109. Bancorp thus tightly controlled the Developer Group's funds and activities with respect to the Seabreeze Project.

110. Accordingly, Bancorp is an insider claimant as it relates to the Debtor's estate, and its Amended Claim is an insider claim.

111. As an insider, Bancorp unjustly enriched its position as senior lienholder on a well-capitalized development by using bait-and-switch tactics to trick the EB-5 Creditors to invest in the Mezzanine Lender and deploy their funds in the Seabreeze Project. Similarly, the Developer Group were insiders of the Debtor and their actions as alleged were unjust and inequitable toward the EB-5 Creditors and damaged the EB-5 Creditors.

112. Even if Bancorp is not considered an insider, Bancorp's acts, representations and omissions directed to the EB-5 Creditors constitute egregious conduct, because such conduct is

fraudulent and furthered the scheme of the Developer Group.

113. Specifically, Bancorp wrote the May 31 Letter and the July 16 Letter with the intent and understanding that such correspondence would be shown to the EB-5 Creditors to encourage them invest in the Mezzanine Lender, and it drafted and executed the Bancorp Loan documents that did not contain the provisions as represented to the EB-5 Creditors.

114. The actions of Bancorp and the Developer Group directly resulted in harm to the EB-5 Creditors. Without Bancorp's misrepresentations, concealment, and assistance to the Developer Group in soliciting the EB-5 Creditors' \$500,000 investments, the EB-5 Creditors would not have invested in a venture and would not presently be in risk of losing their funds and their eligibility for permanent residency in the United States.

115. Instead, without Bancorp's and the Developer Group's improper and egregious conduct, the EB-5 Creditors would have invested in a safer EB-5 project or, had Bancorp followed through with its representations, the EB-5 Creditors would have an interest superior to that of Bancorp in units in the Seabreeze Project.

116. OHL, as assignee, stands in the shoes of Bancorp with respect to the Amended Claim, such that, if Bancorp's pre-petition conduct warranted subordination, the Amended Claim must be subordinated notwithstanding its new holder.

**WHEREFORE**, the EB-5 Creditors demand judgment, pursuant to 11 U.S.C. § 510(c) and 105(a), against OHL and the Developer Group subordinating their Claims to the claims of the EB-5 Creditors, along with such other relief the Court deems just and proper.

Date: July 16, 2018

Respectfully submitted,

**LEVINE KELLOGG LEHMAN  
SCHNEIDER + GROSSMAN LLP**  
*Counsel for the EB-5 Creditors*  
Citigroup Center, 22<sup>nd</sup> Floor  
201 South Biscayne Boulevard  
Miami, FL 33131  
Telephone (305) 403-8788  
Facsimile (305) 403-8789

By: /s/ Thomas R. Lehman  
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Florida Bar No. 118166  
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Secondary: [ah@lklsg.com](mailto:ah@lklsg.com)

-and-

**REID & WISE LLC**  
*Counsel for the EB-5 Creditors*

By: /s/ Matthew Sava  
Matthew Sava, Esq.  
Han Liang, Esq.  
*Pro hac vice*  
One Penn Plaza, Suite 2015  
New York, NY 10119  
P : 212-858-9968  
C : 917-885-2430

# **Exhibit One**

# The Bancorp Bank

May 31, 2012

Mr. Ray Parello  
c/o 550 Seabreeze Development Corp LLC  
11900 Biscayne Boulevard-Suite 700  
Miami, FL 33181

**RE: Construction Financing for 550 Seabreeze Boulevard, Ft. Lauderdale, FL**

Dear Ray,

I am writing to follow up on our recent conversation and to confirm to you that Bancorp Bank has preliminarily approved construction financing for the 550 Seabreeze Boulevard project (139 Indigo hotel rooms + Senor Frogs restaurant space). As discussed, Bancorp Bank would commit the financing necessary to complete the project, as outlined in Exhibit A; once your group has acquired a level **exceeding \$15,000,000 in sold, confirmed and funded EB-5 subscriptions**. Of course any financing would still be subject to all of our normal final underwriting criteria.

The bank has been supportive of this project from the beginning and we remain very excited that this will be a most successful project from both a development standpoint as well as from an EB-5 investment standpoint. Please feel free to contact me at any time with any questions in this regard. Thank you for the opportunity to be of service to you and your team. I look forward to progressing to the "construction phase" of the project in the near future.

Very sincerely yours,



Michael D. Schreiber  
Senior Vice President





## Exhibit A

This Exhibit A is attached to the Bancorp Letter dated May 31, 2012 to Seabreeze Development Corp LLC. **This exhibit is for discussion purposes only and NOT a commitment to lend.** The loans outlined herein are subject to all normal underwriting for a loan of this type and nature and is subject to formal approval by our Loan Committee.

	Loan #1 – 515 Seabreeze	Loan #2 – 550 Seabreeze
Loan Amount	\$7,500,000	\$38,500,000
Loan Type	Construction	Construction
Interest Rate	1-month LIBOR + 300 bps	1-month LIBOR + 300 bps
Loan Repayment	Interest only payments due monthly	Interest only payments due monthly
Term	Three years (36 months)	Three years (36 months)
Collateral*	1st lien mtg 515/2nd lien mtg 550	1st lien mtg 550/2nd lien mtg 515
Loan Fee	2.50% (\$187,500)	2.50% (\$962,500)
Exit Fee	2.50% (\$187,000)	2.50% (\$962,500)

\*In the event of an uncured monetary default by Seabreeze Development Corp, LLC, the Bank is amenable in releasing one (1) unit to each EB-5 investor up to a total of sixty (60) units of the proposed total of one hundred thirty-nine (139) to be constructed. Each EB-5 investor will be responsible for all closing costs (title, transfer taxes, etc.) as applicable to effectuate such transfer.

# **Exhibit Two**

# The Bancorp Bank

July 16, 2012

Mr. Ray Parello  
c/o 550 Seabreeze Development Corp LLC  
11900 Biscayne Boulevard-Suite 700  
Miami, FL 33181

**RE: Construction Financing for 550 Seabreeze Boulevard, Ft. Lauderdale, FL**

Dear Ray,

Per our recent conversation, I am writing to clarify the point (the asterisk footnote regarding the event of an uncured monetary default of the Seabreeze Development Corp, LLC) on the proposed structure of the construction financing. It is, indeed, The Bancorp Bank's intent to include this provision (that each EB-5 investor shall be entitled to one (1) unit up to sixty (60) units of the one-hundred thirty-six (136) units to be constructed) in all of our future term sheets and final loan documentation. Again, the individual investor will be responsible for all closing costs (title, transfer tax, etc.) associated with any such transfer. I trust that this clarifies the bank's position. We continue to look forward to providing the construction financing for this exciting project and appreciate that opportunity.

Very sincerely yours,



Michael D. Schreiber  
Senior Vice President



# **Exhibit Three**

L A S O L A S O C E A N R E S O R T

To: EB-5 investor

General Partner Damon J. Virtuoso on behalf the General Partner of Las Olas Ocean Resort Partners LP, a Delaware limited partnership (the "Partnership"), and Ray Parelo, Partner, 550 Seabreeze Development, LLC a Florida limited liability company ("Developer") state as follows:

The above-named prospective EB-5 investor, or Limited Partner, as the case may be, herein "Investor," despite any contrary provisions in the applicable Private Placement Memorandum, Subscription Agreement, and/or Limited Partnership Agreement, may, prior to closing on the loan from the Partnership to Las Olas Mezzanine Borrower, LLC Holding Company, LLC ("Borrower"), upon occurrence of any of the events listed below, terminate in writing his Subscription Agreement and his Limited Partnership interest. Upon such termination, the General Partner and the Developer shall direct the relevant Escrow Agent to return within a reasonable time the full \$500,000 investment amount and the full \$50,000 Administrative Fee, without interest.

The events which will precipitate the termination rights listed in this document shall be:

- 1) The General Partner has after reasonable inquiry made to Borrower received material information that Borrower has no reasonable likelihood of paying the expected 1.3% loan interest rate to the Partnership; and/or
- 2) In the event of an uncured monetary default of the Borrower's construction financing, the Investor will not have an enforceable first position security interest in at least one hotel room in the hotel project to be developed at 550 Seabreeze Boulevard, Fort Lauderdale, Florida (the "Project"); and/or
- 3) The Borrower will not have a reasonable construction completion guaranty from a reputable entity in the amount of the Investors' aggregate investment amount.

Investor has the sole responsibility for notifying USCIS appropriately if Investor terminates his Subscription Agreement and withdraws from the Partnership. However, the undersigned partnership and Developer reserve the right in their sole discretion to inform USCIS as they deem appropriate if Investor terminates his Subscription Agreement and withdraws from the Partnership. Investor is hereby notified that the terms of this letter may be disclosed to any and all other potential EB-5 investors in connection with the Project. Investor may not assign any rights or delegate any obligations arising from this letter. This letter is only binding if signed by an authorized representative of both Las Olas Ocean Resort Partners LP and 550 Seabreeze Development, LLC.

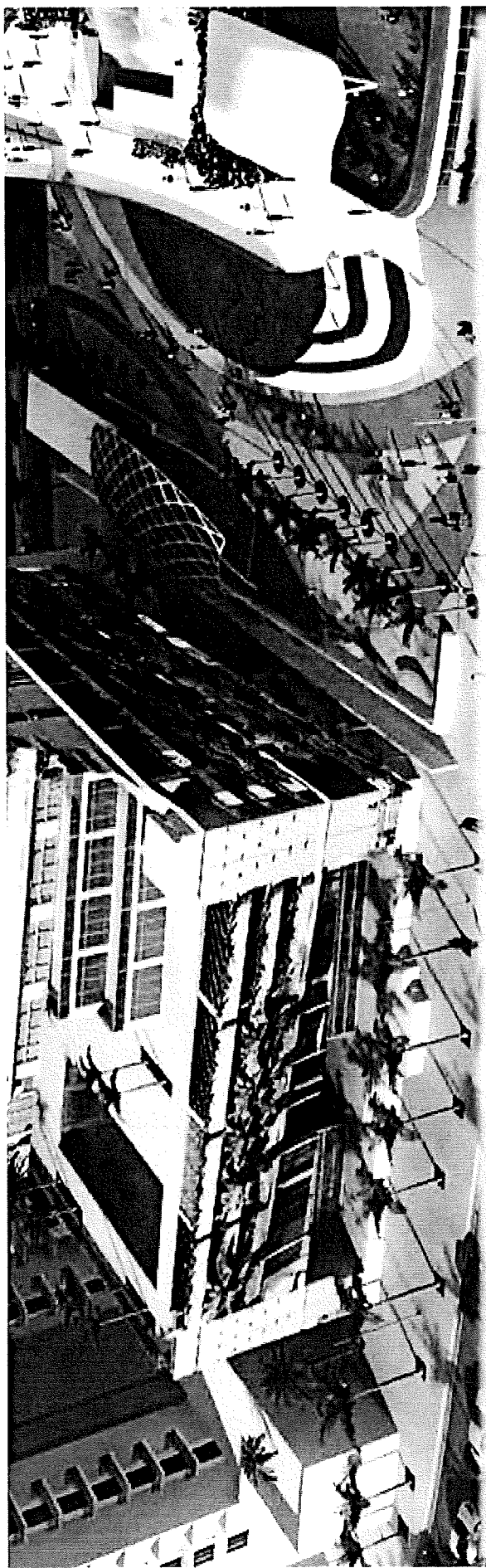
Las Olas Ocean Resort Partners LP

  
By: Damon J. Virtuoso, General Partner

550 Seabreeze Development LLC

  
By: Ray Parelo, Partner

# **Exhibit Four**

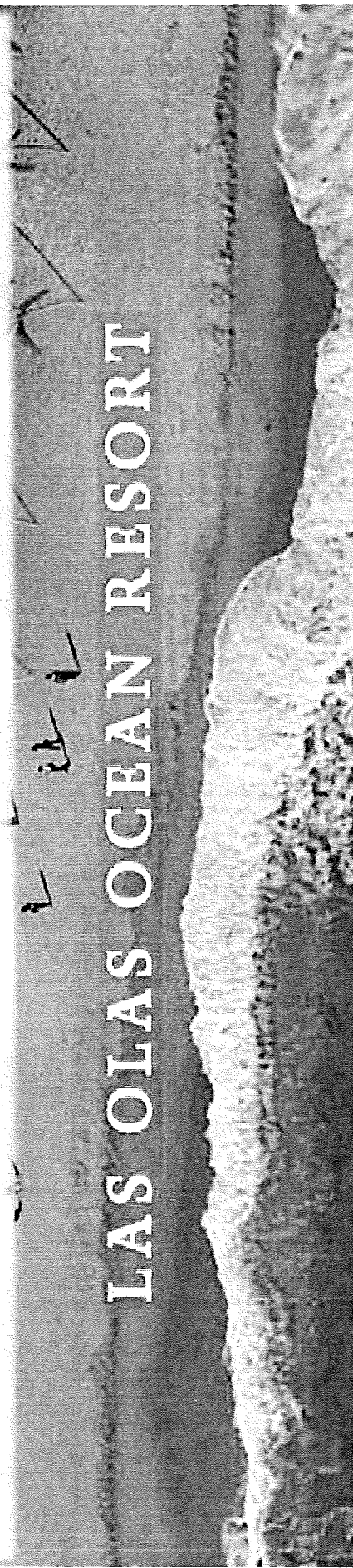


# 拉斯奥拉斯海洋度假酒店

劳德代尔堡，佛罗里达

美国移民局项目预审批

LAS OLAS OCEAN RESORT



# 拉斯奥拉斯海洋度假酒店 -EB-5精品项目

## 项目优势:

1. 移民局项目预审批的项目
2. 项目位置绝佳
3. 投资安全



# 拉斯奥拉斯海洋度假酒店 —EB-5精品项目

1. 移民局项目预审批：
  - 美国移民局认可
  - 少数移民局审批预通过项目之一

LAS OLAS is

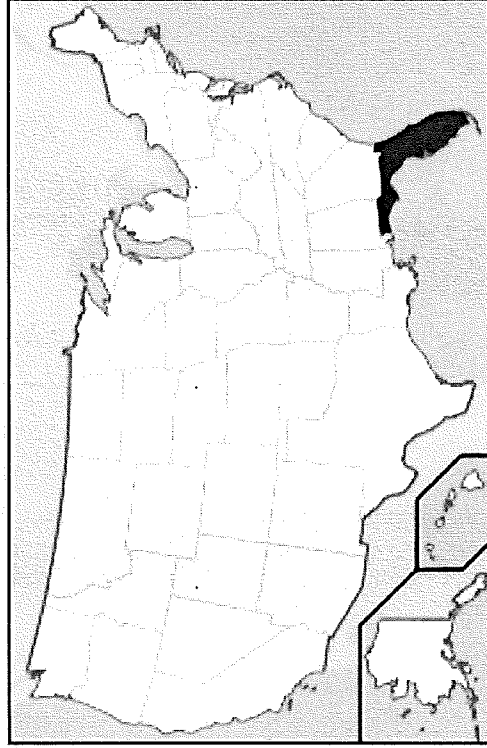
USCIS  
EXEMPLAR

APPROVED

# 拉斯奥拉斯海洋度假酒店 —EB-5精品项目

## 2. 位置:劳德代尔堡, 佛罗里达

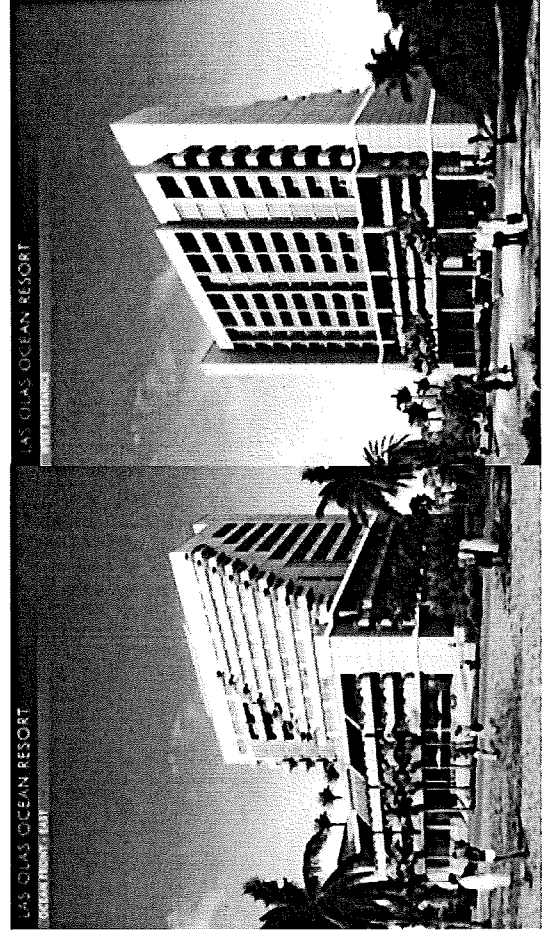
- 佛罗里达最大旅游城市之一
- 坐拥无敌海景, 离市中心一步之遥



# 拉斯奥拉斯海洋度假酒店 —EB-5精品项目

## 3. 投资者的投资十分安全

- 银行承诺每位投资者将拥有酒店的一套房间作为还款保险

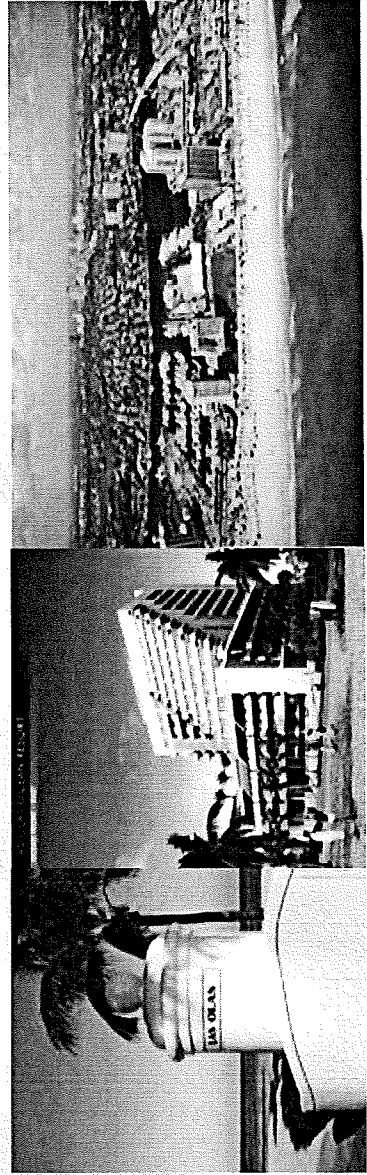


# 欢迎来到

# 不可思议的自然美景

LAS OLAS is  
USCIS  
EXEMPLAR  
APPROVED

这里地处气候宜人的亚热带地区，水清沙细，终年温暖。说起南佛罗里达的海滨度假去处，拉斯奥拉斯 [Las Olas] 海洋度假酒店绝对提供最优越的地理位置。劳德代尔堡的美丽沙滩触手可及，一切娱乐休闲圣地都近在咫尺，更不用提酒店本身的完善与奢华。拉斯奥拉斯海洋度假酒店绝对是旅游度假的不二之选。



+

# 地理位置



LAS OLAS OCEAN RESORT

## 佛罗里达

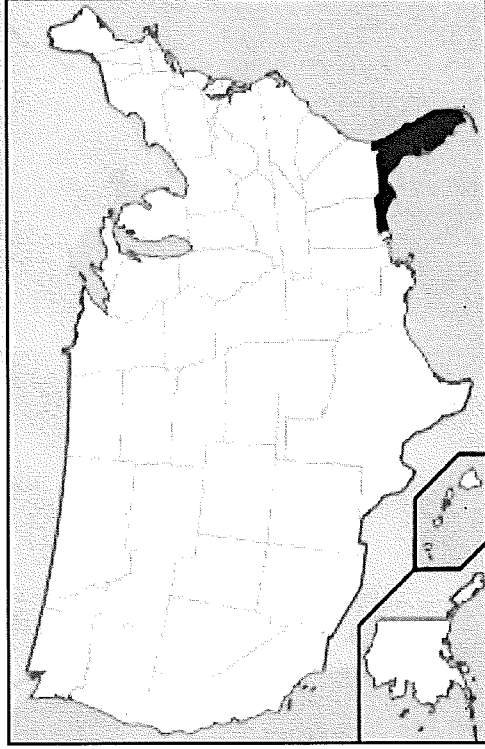
位于大西洋和墨西哥湾海岸

人口排名**第四**，19,057,542 (2011)

经济 (GDP) 排名**第四**(2011)

最受欢迎旅游圣地 (2011)

66所公立及私立大学



最适合商业发展排名**第三**

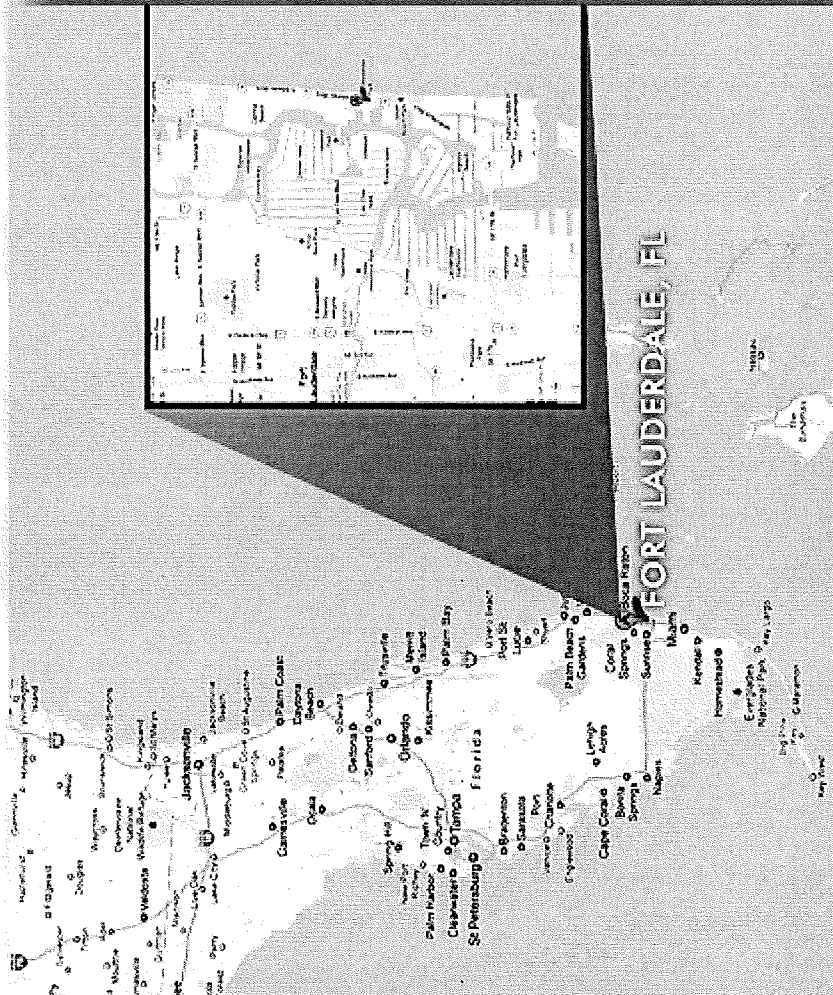
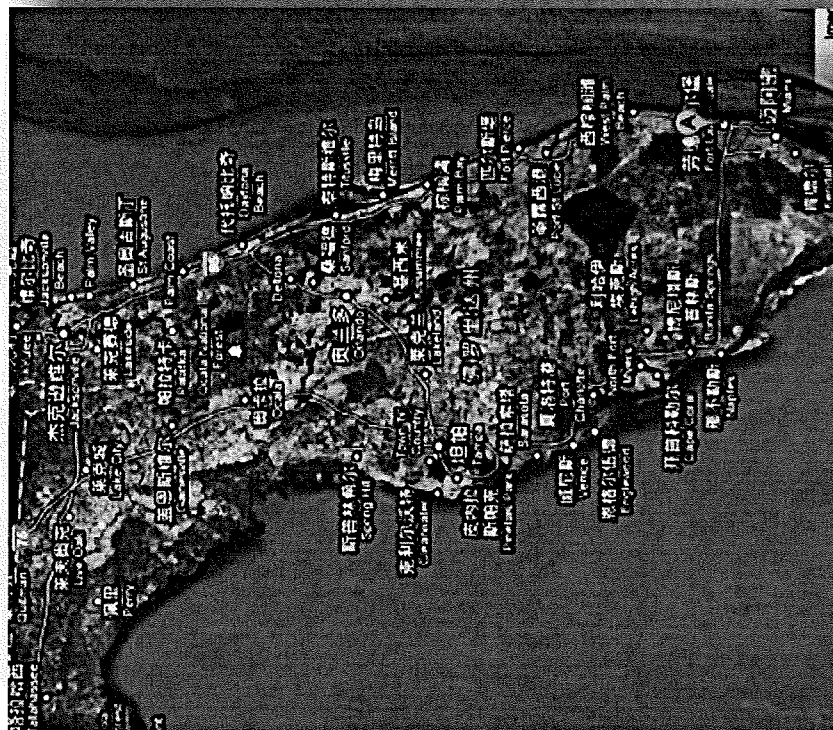
Chief Executive.net

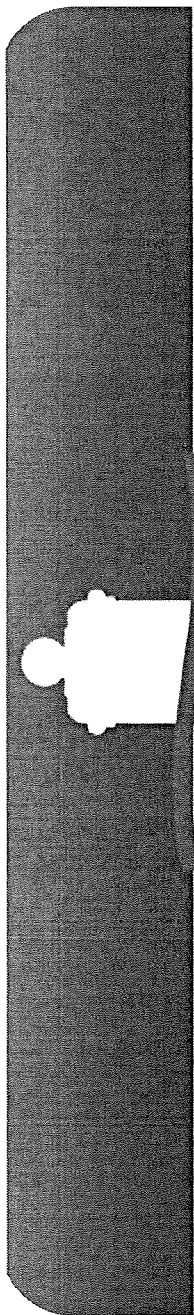
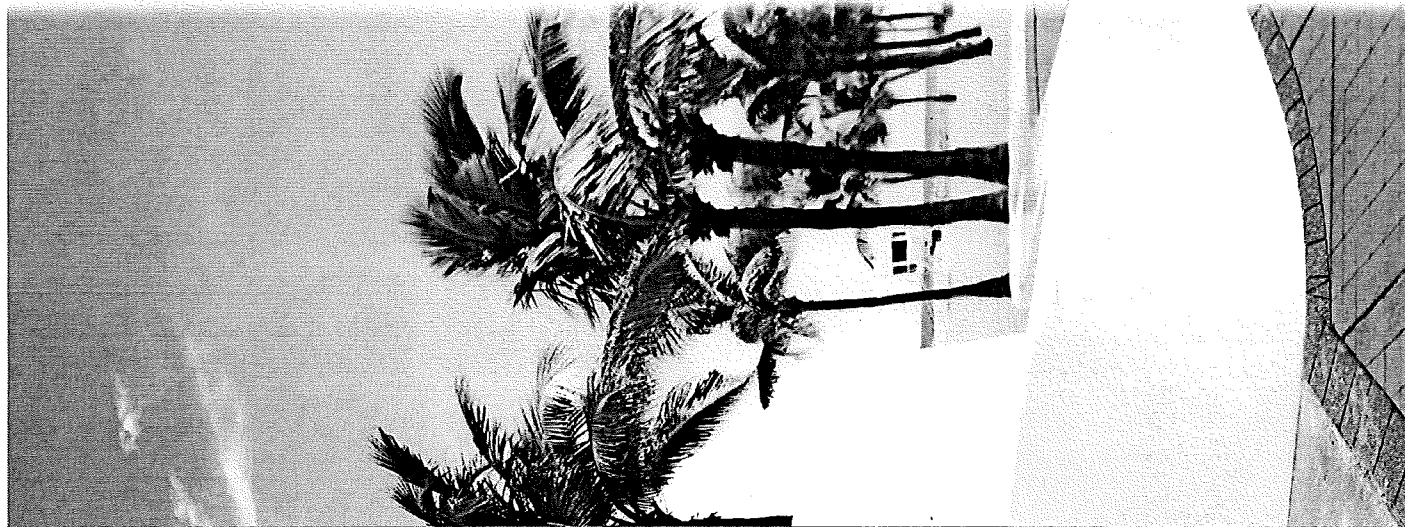
+

地理位置

LAS OLAS OCEAN RESORT

# 劳德代尔堡/Fort Lauderdale





LAS OLAS OCEAN RESORT

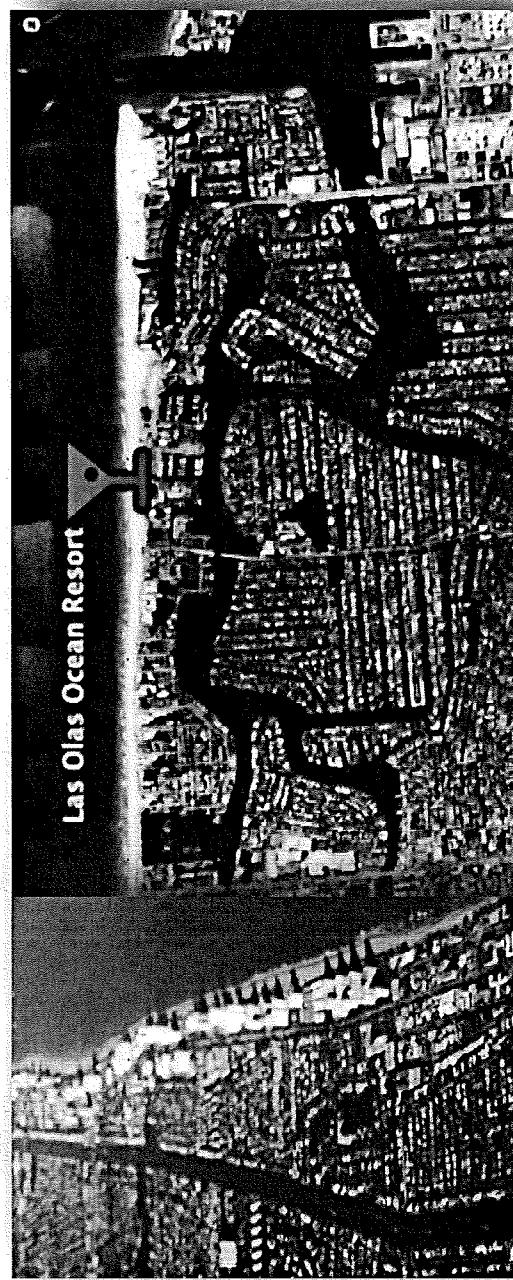


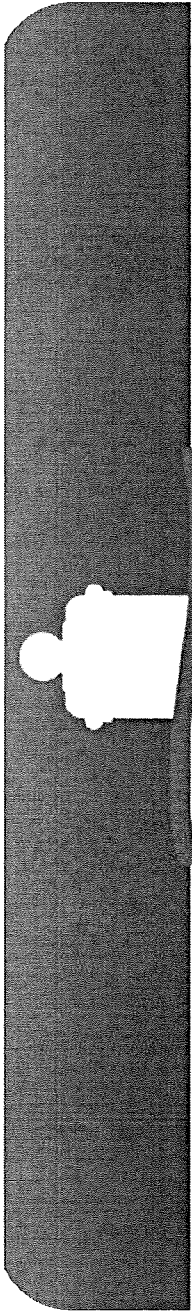
# “美国威尼斯”

超过 300 英里的内陆航道

1,110 万 游客(2011)

\$90.1 亿 美金 游客 花费(2011)





## “世界游艇之都”

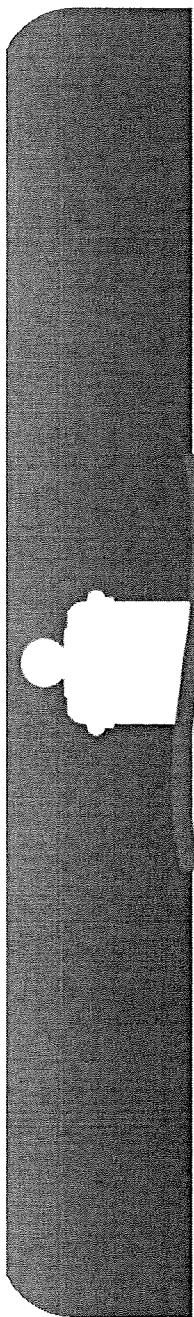
45,000 游艇

超过 3,000 个码头和船坞

全美第三繁忙游艇码头, Port Everglades







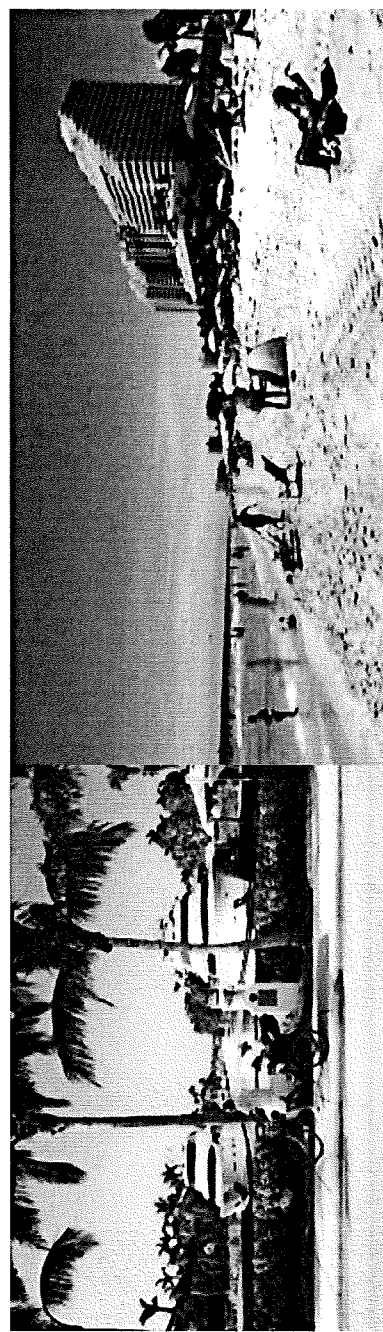
LAS OLAS OCEAN RESORT

# 劳德代尔堡国际游艇展

## 世界第三大水上游艇展

### 每年12.5万游客

### “最佳生活和商业投资地区前100名”



# 拉斯奥拉斯海洋度假酒店

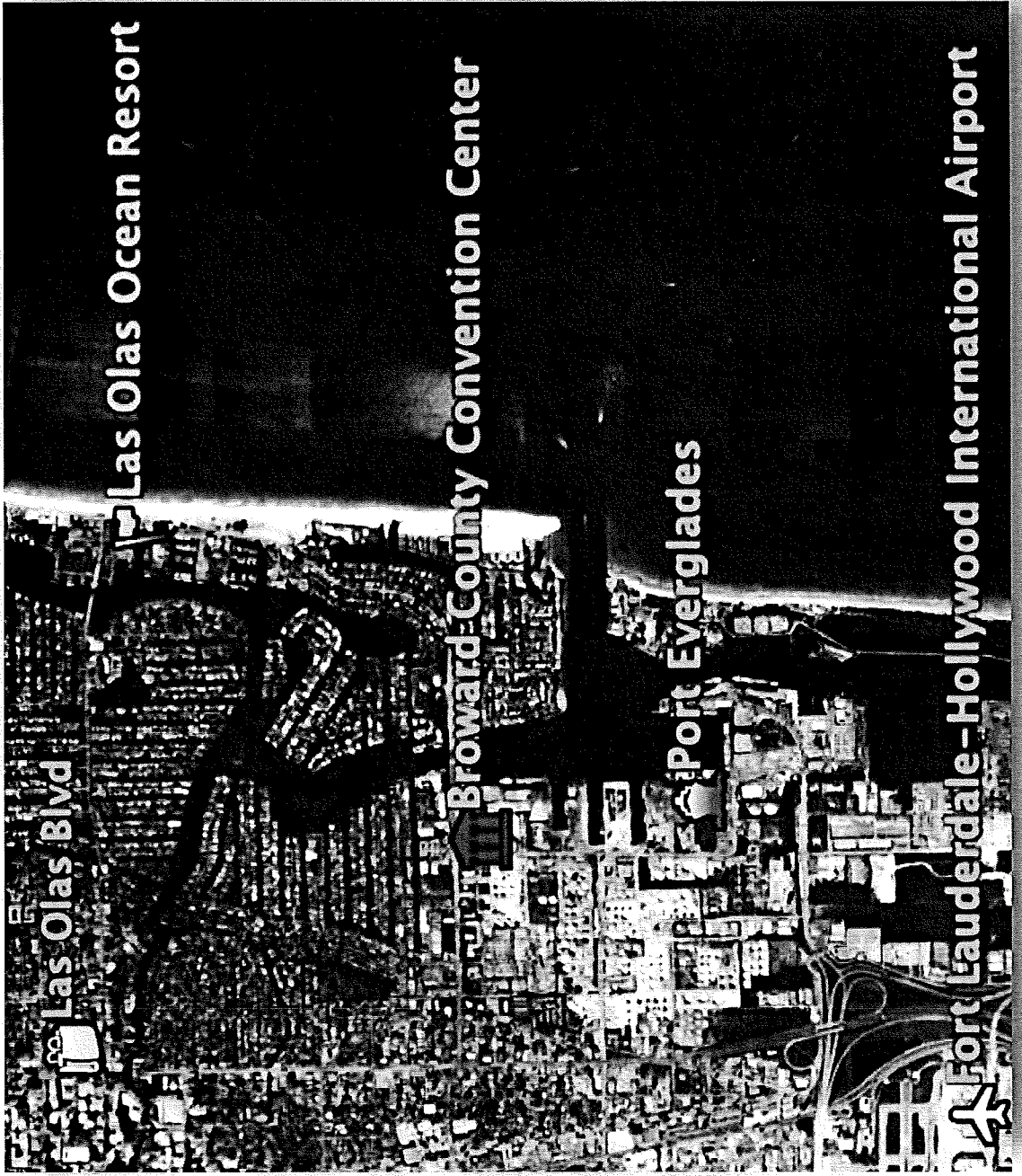


地址：550 Seabreeze, 大西洋海岸线占地34,299 平方英尺  
距离市区最繁华的购物和饮食区 - Las Olas Boulevard 只有两个街区

+

项目位置

LAS OLAS OCEAN RESORT



港口, Everglades

6 分钟车程

3 英里

机场

13 分钟车程

6英里

会展中心

5 分钟车程

2.6英里

商业区

5 分钟车程

2.2 英里

+

# 项目位置

## Bahia Mar 游艇中心

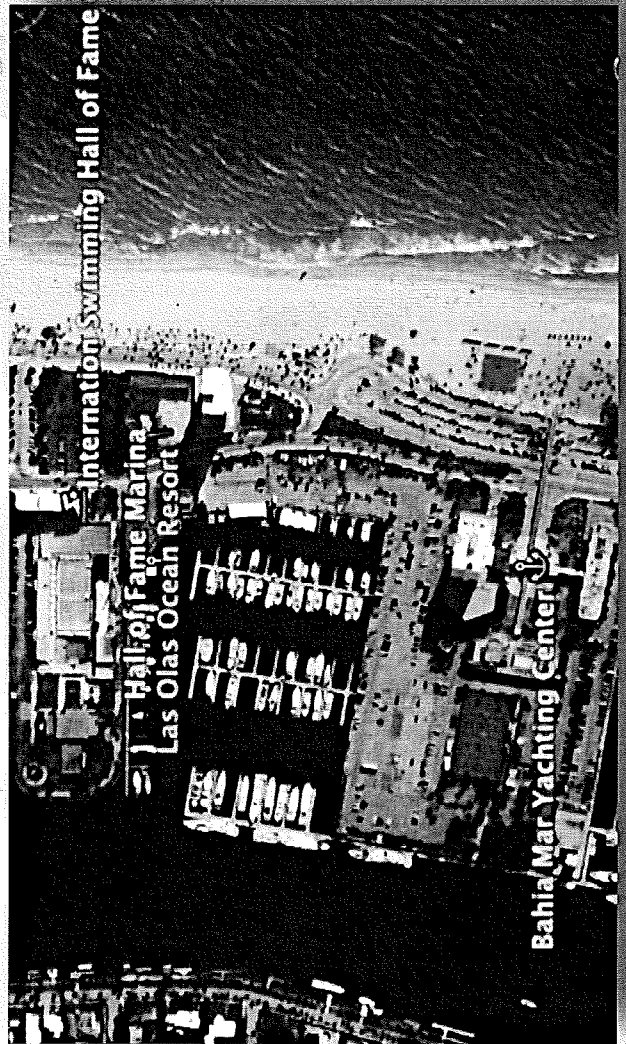
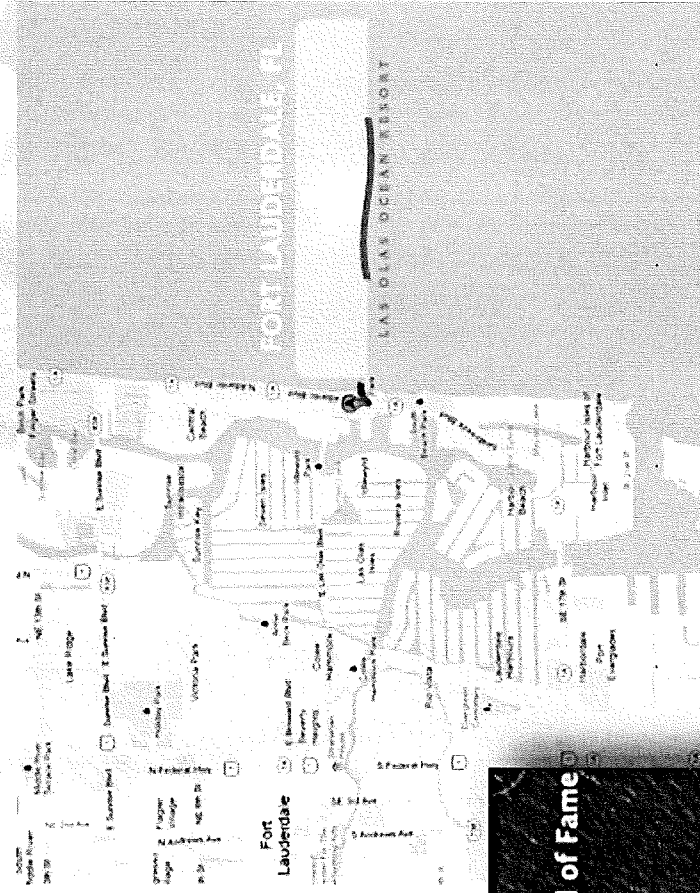
每年吸引300万游客

劳德代尔堡市政已与黑石集团

(Blackstone)签署了价值5亿美元的城

市再发规划。

## LAS OLAS OCEAN RESORT



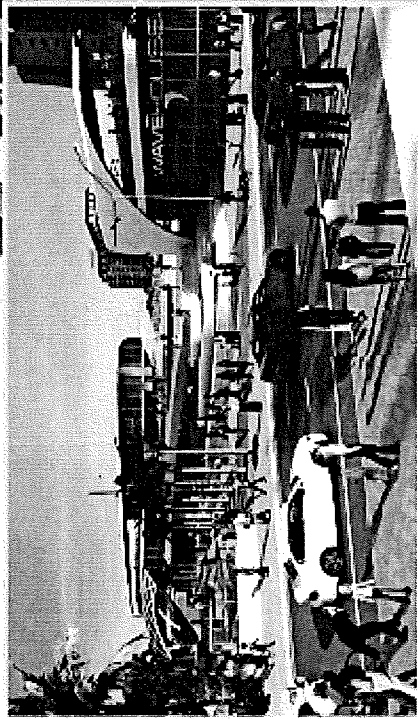
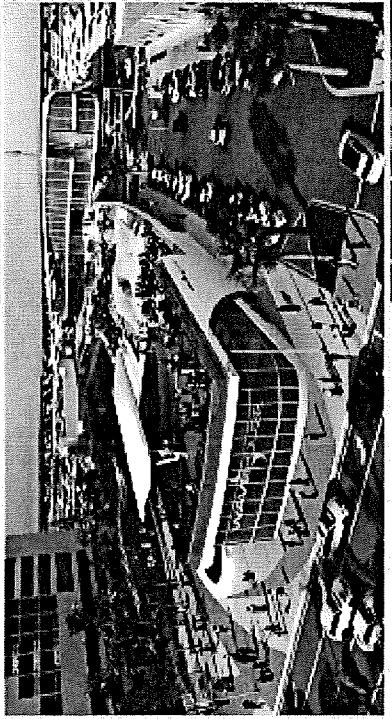
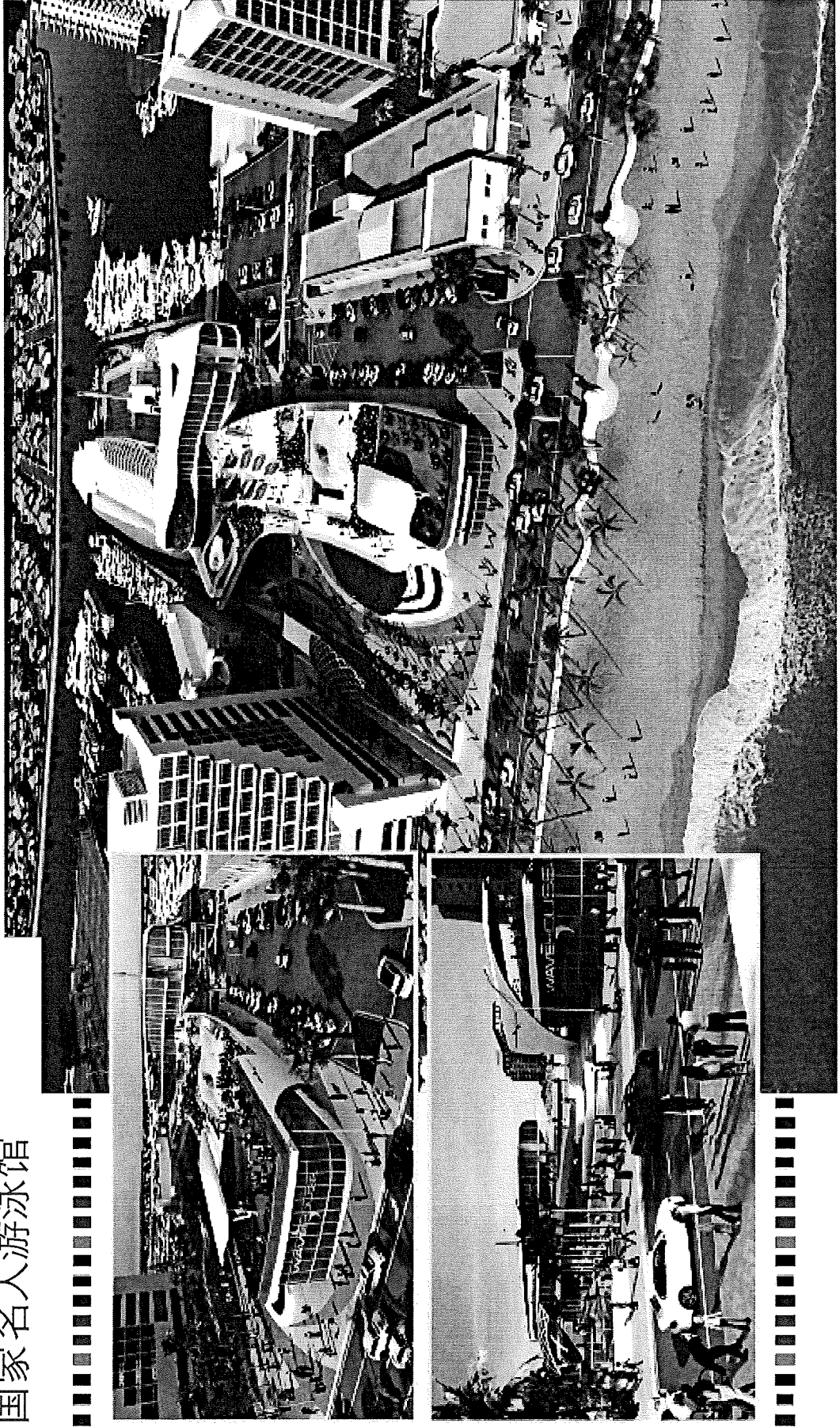
包括增加自行车道、步行长廊、绿色带和沙滩边高雅的“波浪墙”

# +

## 项目位置

LAS OLAS OCEAN RESORT

国家名人游泳馆



+

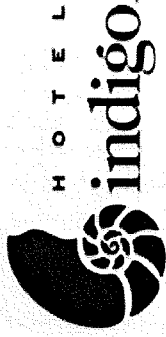
# 项目细节

LAS OLAS OCEAN RESORT

LAS OLAS OCEAN RESORT  
OCEAN FRONT - EAST



InterContinental Hotels Group



223,275平方英尺酒店面积

136 间精品客房

291 个停车位

观海游泳池, 5楼

9,000 平方英尺餐厅

2,100 平方英尺行政酒廊, 12楼

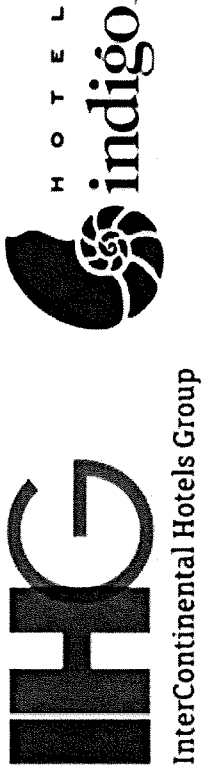
700 平方英尺沙龙

“海洋会所”专属客人和会员



+

合作伙伴

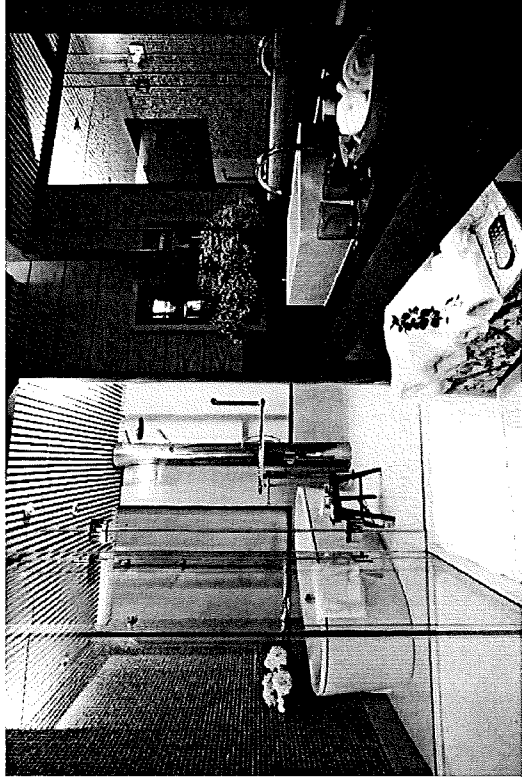


洲际酒店集团是全世界最大的酒店运营商，旗下拥有七个著名酒店品牌。

英迪格[Indigo]是第一家世界连锁的精品酒店品牌，自2004年成立以来，成就斐然，发展迅速。

英迪格[Indigo]酒店被评为高档酒店中客人满意度最高的酒店。(2011)

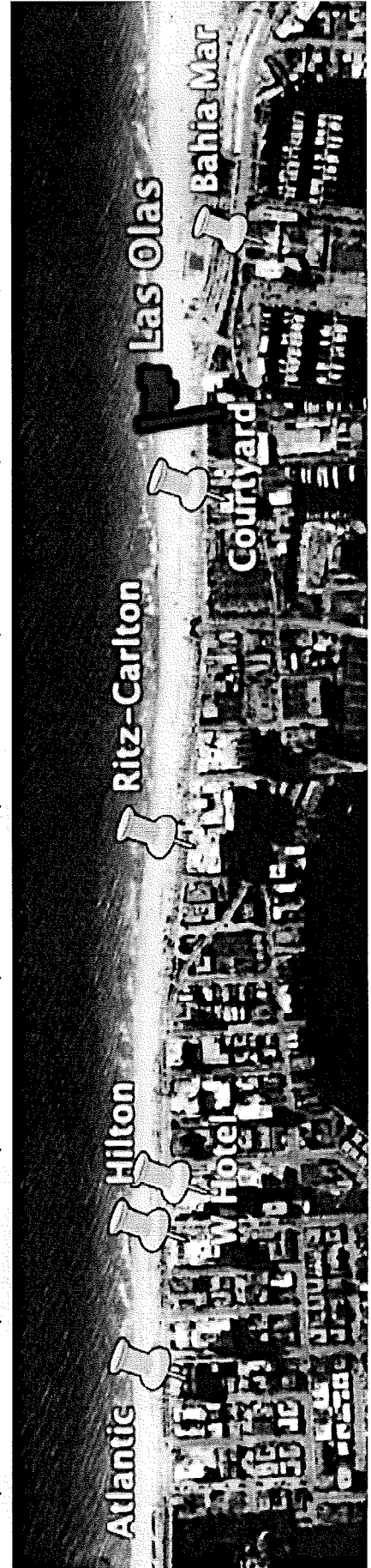
J.D.POWER  
AND ASSOCIATES



## +

### 市场信息

酒店	开业年	房间数	平均房价
Bahia Mar	1975	296	\$100-450
万豪 /Courtyard(沙滩)	1976	261	\$100-350
大西洋/Atlantic	2004	124	\$200-700
希尔顿/Hilton (沙滩)	2006	374	\$150-700
利兹卡尔顿/Ritz-Carlton	2007	166	\$250-600
W酒店/W Hotel	2009	474	\$200-1250
拉斯奥拉斯/Las Olas	2014	136	\$200

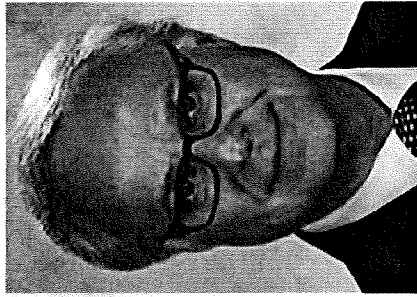




# 十 开发商 世界一流的开发商团队组成



Eugene Kessler  
Owner / Partner



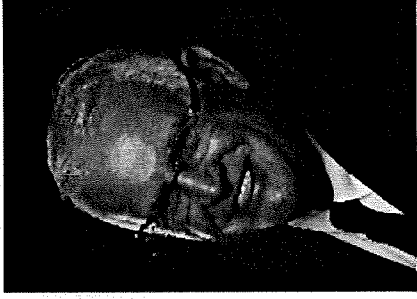
Jack Kessler  
Legal Counselor



Kenneth Bernstein  
General Counselor



John Yoney  
Development and  
Major Loan Acquisitions

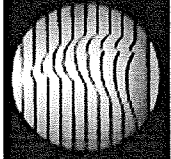


Ray Parelo  
Director of Finance

超过50年的专业金融和地产开发经验

开发超过2,000万平方英尺的高端购物中心、酒店、公寓和俱乐部

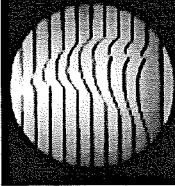
旗下资产超过数十亿美金



*Turnberry Associates*



开发商

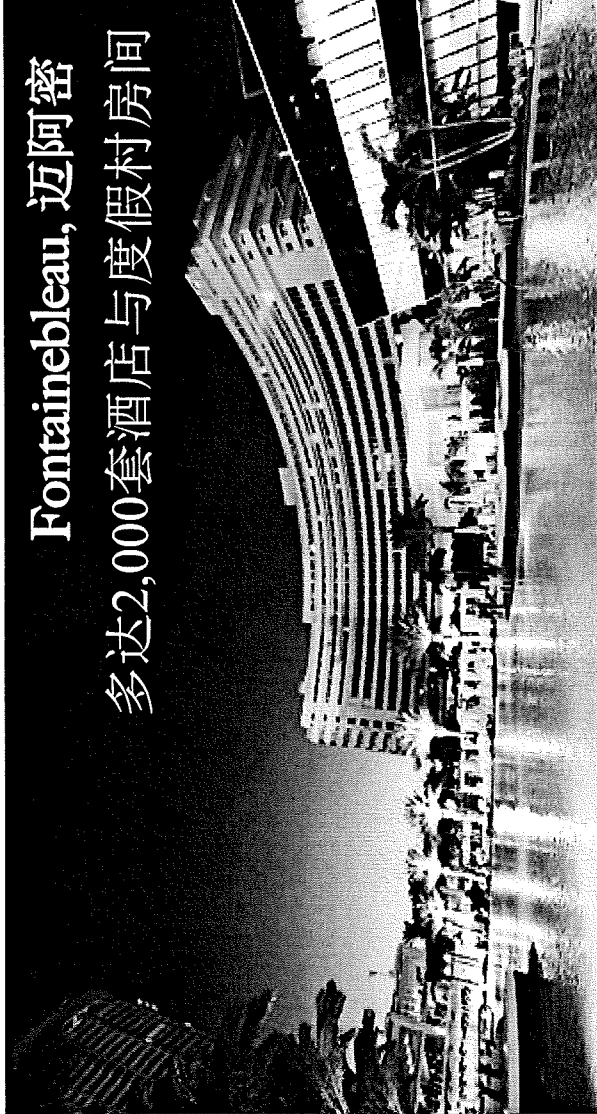


Turnberry Associates

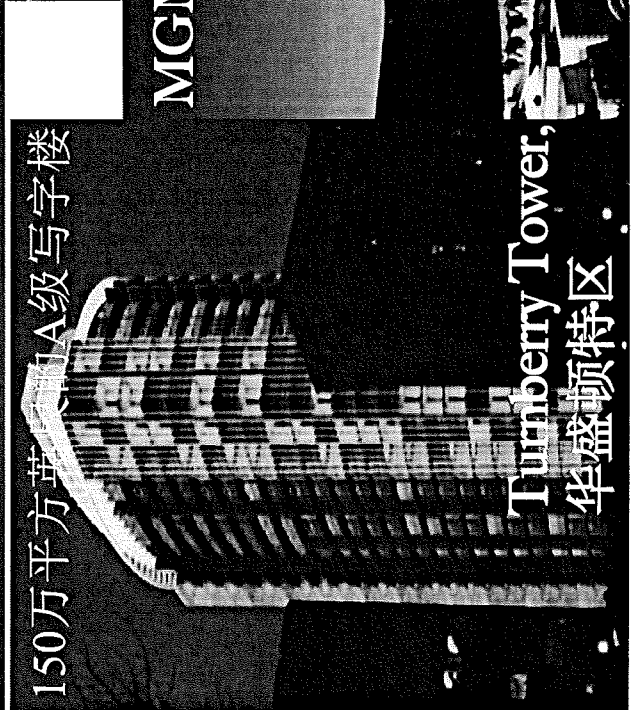
Aventura Mall, 迈阿密



Fontainebleau, 迈阿密  
多达2,000套酒店与度假村房间

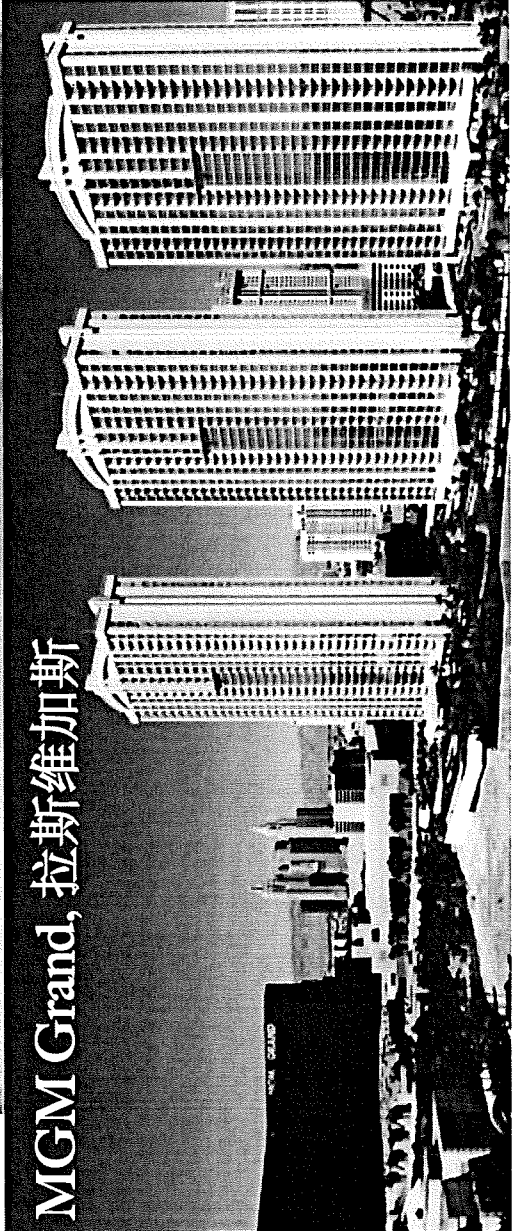


150万平方英尺A级写字楼



Turnberry Tower,  
华盛顿特区

MGM Grand, 拉斯维加斯





CAPABILITY. INTEGRITY. VALUE.

### 完工保证

“保证按时按预算完工”

### 第三方保险金额一亿美金

自1936年成立至今,已成功完成数百个项目

华盛顿特区, 和佛罗里达州区域

商业大厦、公寓、酒店、零售商铺、歌剧院、医疗场  
所、学校、政府工程、宗教场所、国家纪念碑、保护  
古迹遗址等

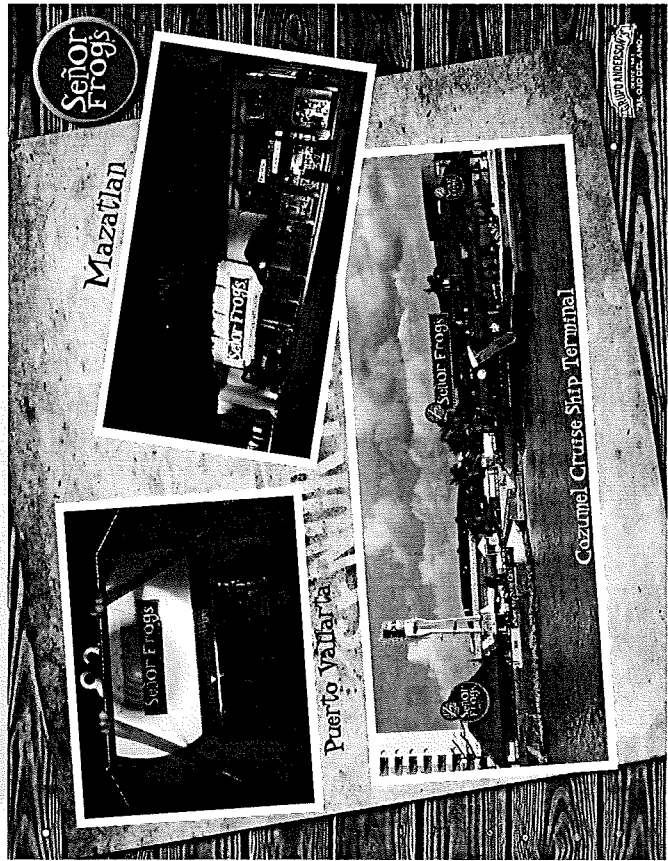


South Beach Hotel Project

合作伙伴



400 多个商业客户  
每天照料上千名客人



LAS OLAS OCEAN RESORT



Cancun, Q. Roo March 23, 2013.

Mr. Sammy Colbar  
Las Olas Ocean Resort  
550 San Beate Blvd  
Ft. Lauderdale, Florida

Dear Mr. Colbar,

Señor Frogs is excited to express our complete commitment to your upcoming oceanfront hotel project. Our company confidently predicts the hotel's services & amenities will greatly enhance the public's interest & excitement on Ft. Lauderdale beach along with complementing the planned redevelopment of the Swimming Hall of Fame.

Señor Frogs, recognized worldwide for its atmosphere of party and joy, is the iconic brand of Grupo Andersons. Our management team believes Señor Frogs unique interactive entertainment & dining concept is a perfect fit for that section of the beach.

You are aware Señor Frogs currently operates in 13 tourist destinations and beaches in Mexico, United States, and the Caribbean - Mazatlan, Cancun, Acapulco, Ixtapa, Playa del Carmen, Puerto Vallarta, Cozumel, Honolulu, Myrtle Beach, Aruba, Bahamas, Cabo San Lucas, Costa Maya, Puerto Rico & St Thomas.

We are looking forward to commencing our operations in Ft. Lauderdale and expect it will become one of our premier locations.

Sincerely,

David Knobloch  
CEO

Operated Andersons S.A. de C.V.  
Southern Division No. 145  
Km. 1 Zona Turística No. 145  
Cancun, Quintana Roo 97070  
Telephone: (998) 834-1722  
Fax: (998) 834-9711  
www.señorfrogs.com

Reservados todos los derechos. No se permite la explotación económica ni la transformación de esta obra. Queda permitida la impresión en su totalidad.

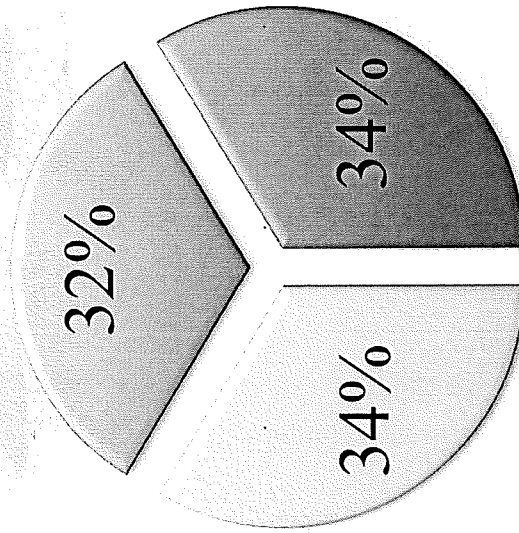
# 融资架构 +

开发商: 2904 万美金

银行: 3000 万美金

EB-5: 3000 万美金

**总共: 8904 万**



▣ 开发商 ▣ 银行 ▣ EB5

**60 个 EB-5 投资者**



May 31, 2012

Mr. Ray Parello  
c/o 550 Seabreeze Development Corp LLC  
11900 Biscayne Boulevard-Suite 700  
Miami, FL 33181

RE: Construction Financing for 550 Seabreeze Boulevard, Ft. Lauderdale, FL

Dear Ray,

I am writing to follow up on our recent conversation and to confirm to you that Bancorp Bank has preliminarily approved construction financing for the 550 Seabreeze Boulevard project (139 Indigo hotel rooms + Senior Frogs restaurant space). As discussed, Bancorp Bank would commit the financing necessary to complete the project, as outlined in Exhibit A; once your group has acquired a level exceeding \$15,000,000 in sold, confirmed and funded EB-5 subscriptions. Of course any financing would still be subject to all of our normal final underwriting criteria.

The bank has been supportive of this project from the beginning and we remain very excited that this will be a most successful project from both a development standpoint as well as from an EB-5 investment standpoint. Please feel free to contact me at any time with any questions in this regard. Thank you for the opportunity to be of service to you and your team. I look forward to progressing to the "construction phase" of the project in the near future.

Very sincerely yours,

Michael D. Schreiber  
Senior Vice President

www.TheBancorp.com F 215.441.1450 F 215.441.1455



626 Jacksonwille Road, Suite 105, Warminster, PA 18974

Banking Services Provided by The Bancorp Bank

**LAS OLAS OCEAN RESORT  
FINANCIAL PROGRAM (PHASE 1 - OCEANFRONT)  
550 SEABREEZE BOULEVARD**

- 0.00%
- 1.00%
- 1.00%
- 5%
- 10%

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Operating Revenues	\$1,400,000	\$1,400,000	\$1,400,000	\$1,400,000	\$1,400,000	\$1,400,000
Operating Expenses	(1,700,000)	(1,700,000)	(1,700,000)	(1,700,000)	(1,700,000)	(1,700,000)
Net Operating Income	\$700,000	\$700,000	\$700,000	\$700,000	\$700,000	\$700,000
Present Value	\$6,411,867	\$6,411,867	\$6,411,867	\$6,411,867	\$6,411,867	\$6,411,867

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Operating Revenues	\$1,400,000	\$1,400,000	\$1,400,000	\$1,400,000	\$1,400,000	\$1,400,000
Operating Expenses	(1,700,000)	(1,700,000)	(1,700,000)	(1,700,000)	(1,700,000)	(1,700,000)
Net Operating Income	\$700,000	\$700,000	\$700,000	\$700,000	\$700,000	\$700,000
Present Value	\$6,411,867	\$6,411,867	\$6,411,867	\$6,411,867	\$6,411,867	\$6,411,867



收入预算

净利润:

**\$700万美金每年 (平均)**  
在运行稳定后

尊贵会员

投资者可永久享受  
奢华分时

度假房的优惠

Net Operating Income (Based on 171,547 sq ft)

Net Present Value

\$6,411,867

+

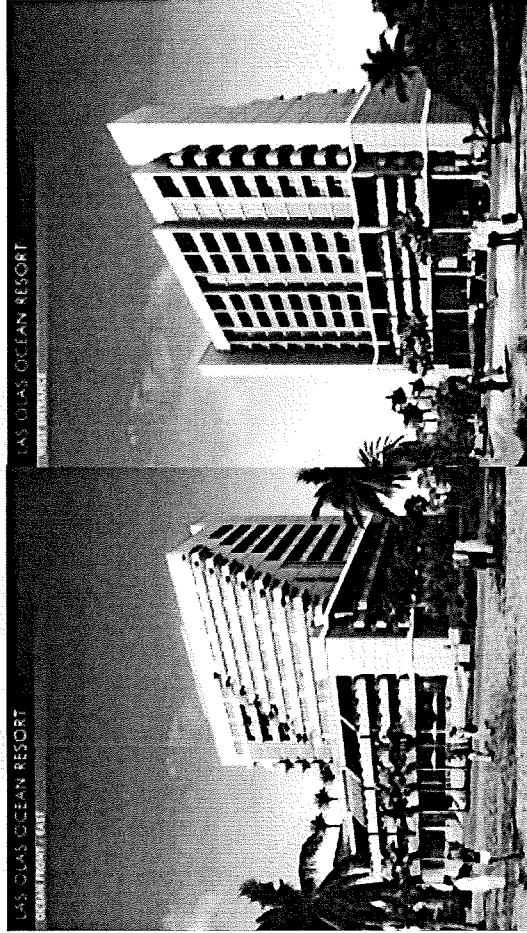
# 投资回报

LAS OLAS OCEAN RESORT

## 固定回报

1.3% 年利率

酒店在第三年开业



	1年	2年	3年	4年	5年
每年回报	6,500	6,500	6,500	6,500	6,500
支付回报累计	-	-	19,500	26,000	32,500
累计占总投资比率	0	0	3.9%	5.2%	6.5%

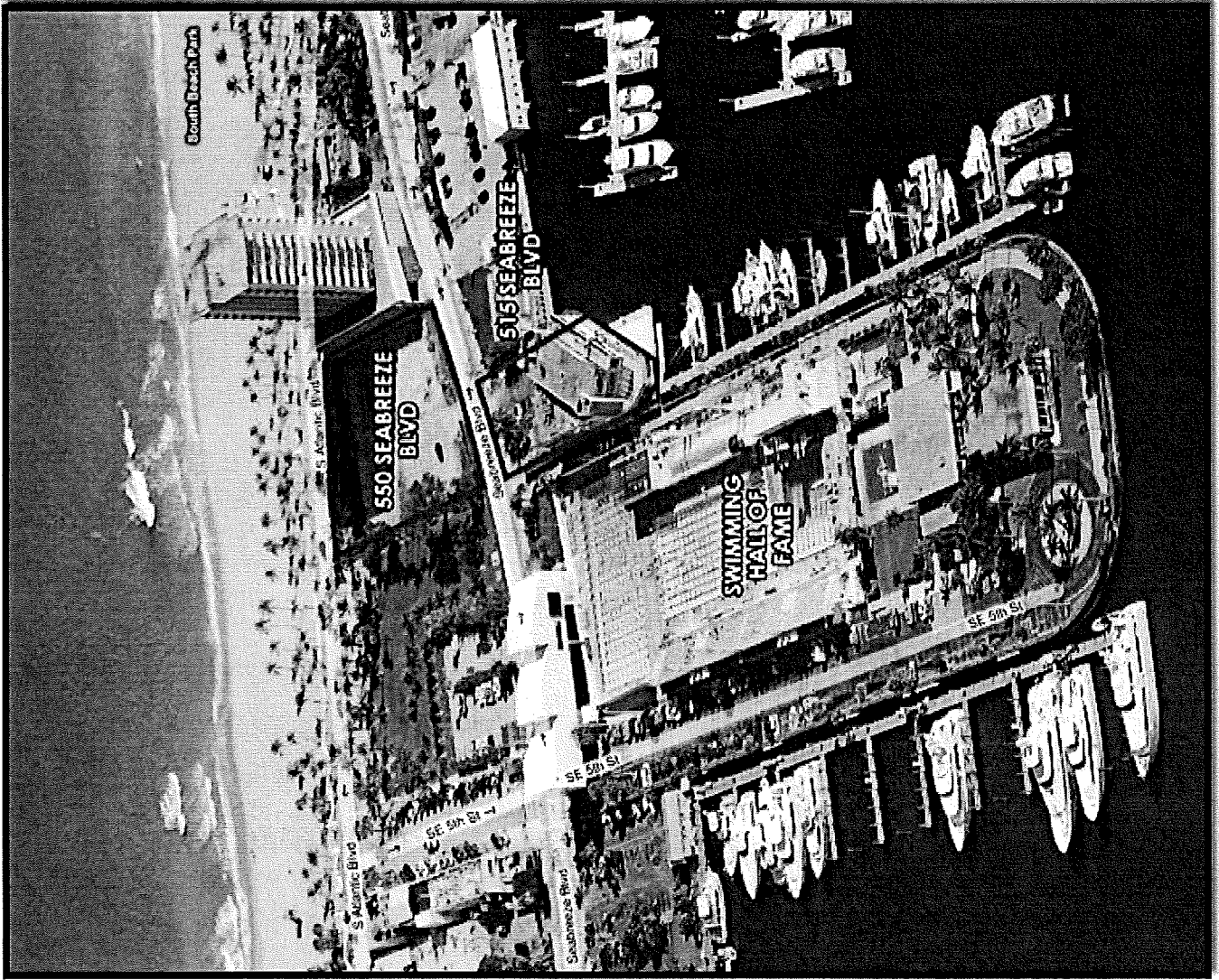
+

## 项目总价值

完工价值:

550 项目 + 515 土地

**\$1.0172亿美金**





**+**  
**抵押品**

**每位投资者一个房间**

在开发商不能返还EB-5投资者的  
投资金的情况下， Bancorp承诺  
把酒店的60个房间的产权给EB-5  
投资者，因此保证投资本金的安  
全。

**Exhibit A**

This Exhibit A is attached to the Bancorp Letter dated May 31, 2012 to Seabreeze Development Corp LLC. This exhibit is for discussion purposes only and NOT a commitment to lend. The loans outlined herein are subject to all normal underwriting for a loan of this type and nature and is subject to formal approval by our Loan Committee.

	Loan #1 – 515 Seabreeze	Loan #2 – 550 Seabreeze
Loan Amount	\$7,500,000	\$38,500,000
Loan Type	Construction	Construction
Interest Rate	1-month LIBOR + 300 bps	1-month LIBOR + 300 bps
Loan Repayment	Interest only payments due monthly	Interest only payments due monthly
Term	Three years (36 months)	Three years (36 months)
Collateral*	1st lien mtg 515/2nd lien mtg 550	1st lien mtg 550/2nd lien mtg 515
Loan Fee	2.50% (\$187,500)	2.50% (\$962,500)
Exit Fee	2.50% (\$187,000)	2.50% (\$962,500)

\*In the event of an uncured monetary default by Seabreeze Development Corp, LLC, the Bank is amenable in releasing one (1) unit to each EB-5 investor up to a total of sixty (60) units of the proposed total of one hundred thirty-nine (139) to be constructed. Each EB-5 investor will be responsible for all closing costs (title, transfer taxes, etc.) as applicable to effectuate such transfer.

## 退出机制

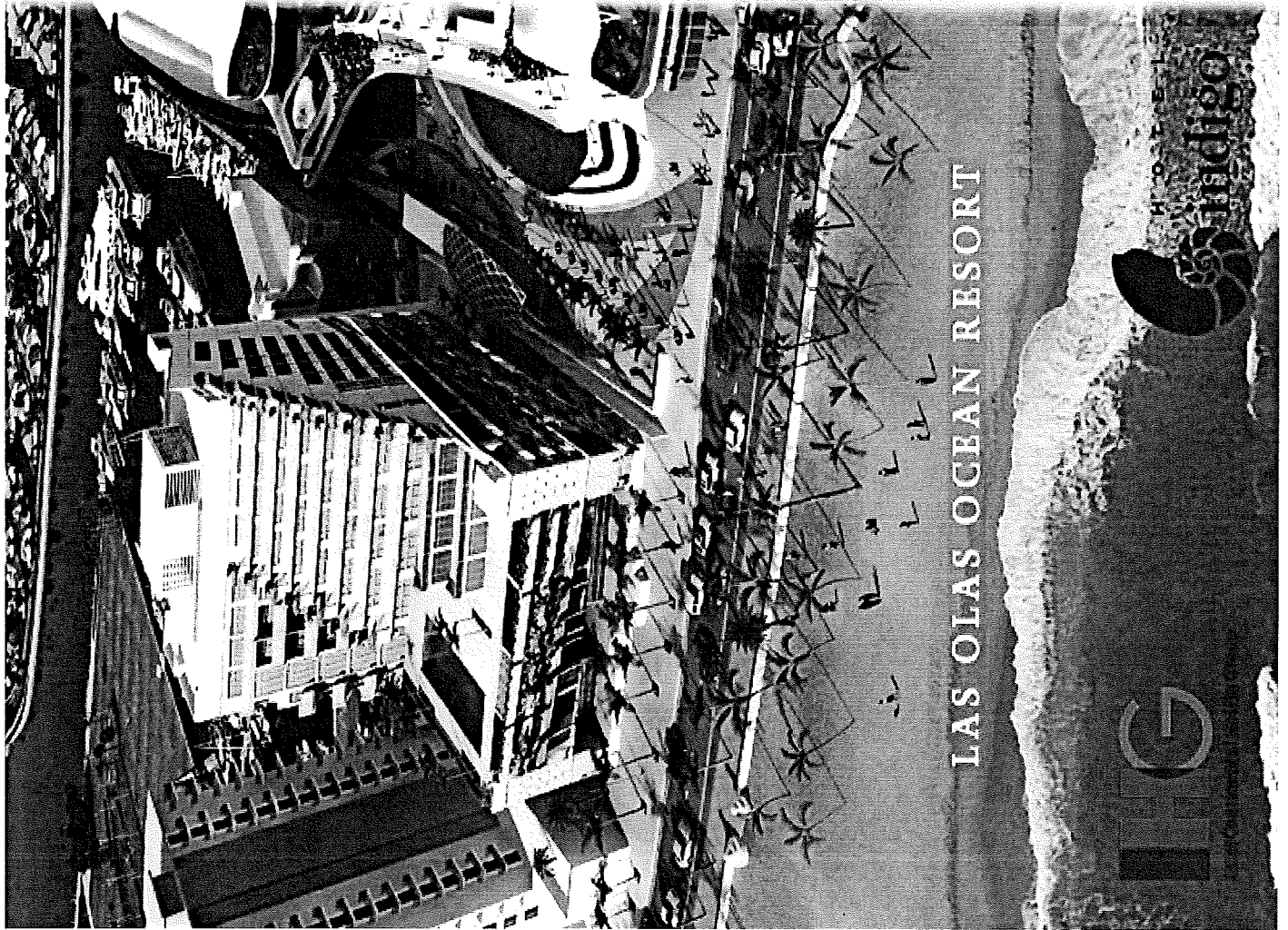
### 还款时间:

所有I-829申请通过

贷款到期5年

### 退出策略:

1. 再融资
2. 分时度假房间出售
3. 酒店出售
4. 银行给每位投资者一个房间



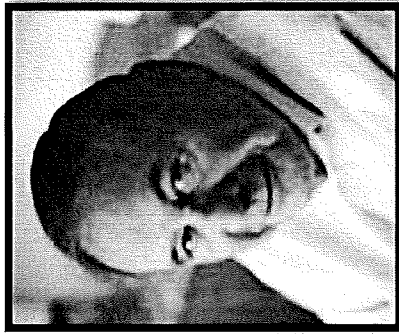
# 创造就业



L A S O L A S O C E A N R E S O R T

## 15 个就业岗位/投资者

超出I-829通过申请要求的50%  
 总共892.9个永久就业



Dr. Evans 是Evans, Carroll & Associates 的主席, 该事务所成立于1981年, 主要向客户提供经济预测以及咨询。Dr. Evans 撰写过超过150个成功的EB-5分析报告。此外, 他还一直担任美国财政部, 国家航空和航天局, 环保局, 美国农业部的经济顾问。

**Table A. Summary of Employment and Revenue Estimates**

Activity	Revenue/ Expenditures	RIMS II Final Demand Mult	Number of New Jobs	NAICS Code
<b>Phase I</b>				
Construction	29.1	18.96	551.7	23
Hotels	11.17	18.57	207.4	721
Restaurants	5.0	26.75	133.8	722
<b>Total Phase I</b>	<b>45.3</b>		<b>892.9</b>	

LAS OLAS is  
USCIS  
EXEMPLAR  
APPROVED

匿名I-526审批通过

保证

- 项目方材料绝对通过审批
- 创造就业计算绝对通过审批

更快

申请审批时间加快

U.S. Department of Homeland Security  
24000 Avila Road, 3<sup>rd</sup> Floor  
Laguna Niguel, CA 92677



U.S. Citizenship  
and Immigration  
Services

Date: 05/22/2011

Roger Bernstein  
RE: Florida Overseas Investment Center  
11900 Biscayne Blvd., Suite 700  
Miami, FL 33181

Applicant(s): Request to Amend Designation as a Regional Center  
Roy Norton

RC: Florida Overseas Investment Center Amendment  
RCW1114650212/ID1031910161

Pursuant to Section 610 of the Appropriations Act of 1993, as amended, on September 17, 2009, Florida Overseas Investment Center was approved and designated as a regional center to participate in the Immigrant Investor Program.

On May 02, 2011, Roy Norton submitted a Form I-924 Application seeking to amend the approval and designation by U.S. Citizenship and Immigration Services (USCIS) of Florida Overseas Investment Center as follows.

To include the Las Olas Ocean Resort Oceanfront Phase I Project as a new capital investment project. This project will allow EB-5 immigrant investors in this project to proceed with the filing of their respective Forms I-526, Immigrant Petition by Alien Entrepreneur with the appropriate fee. Investors must include evidence of any changes or updates to the project such as changes to the estimated start and completion dates.

Based on the review and analysis of your proposal USCIS approves the request.

On October 13, 2010, USCIS approved a proposed amendment to Florida Overseas Investment Center submitted on July 12, 2010. The amendment added Museum Village Project in Miami, Florida as an approved Capital Investment Project for the Florida Overseas Investment Center.

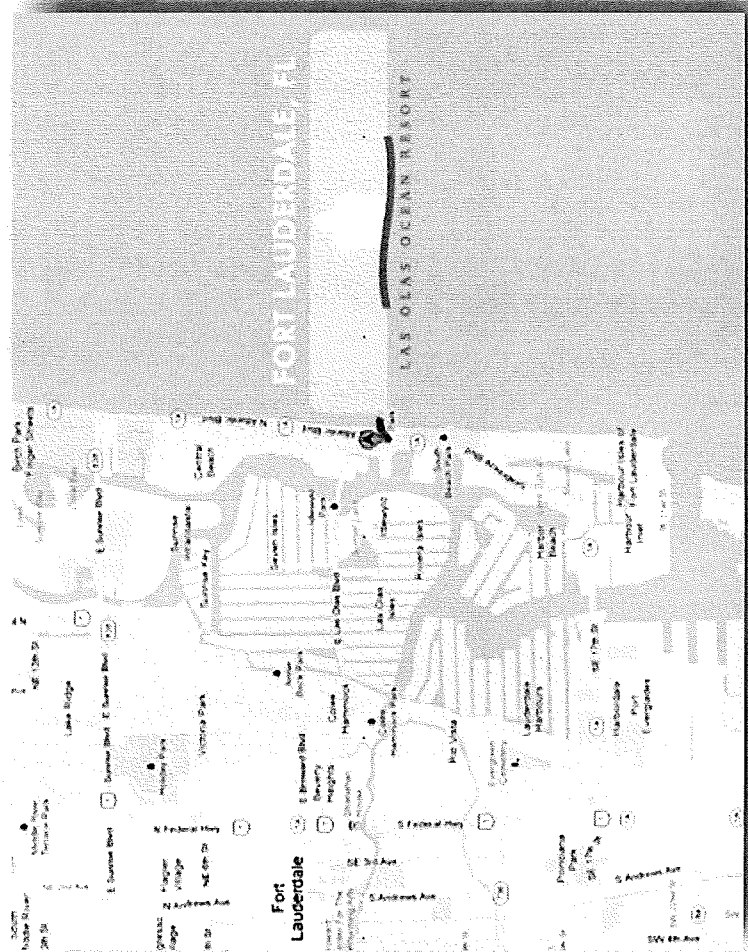
The capital investment projects identified in the business plan in the approved Form I-526 must serve as the basis for determining at the Form I-829 stage whether the requisite capital investment has been sustained throughout the alien's two-year period of conditional residency. In addition, the business plan that formed the basis for the approval of the I-526 petition must establish the validity of the project, which is to include the amount of the required investment to complete the project and the methodology of how the jobs will be created.

www.uscis.gov



# FLORIDA OVERSEAS INVESTMENT CENTER

## TEA: 2012最新数据



Rick Scott  
Governor



Cynthia R. Luciani  
INTERIM EXECUTIVE DIRECTOR

March 15, 2012

Mr. Roy Norton  
Florida Overseas Investment Center  
6547 Morningside Pass Road #3  
Sarasota, Florida 34232

Dear Mr. Norton:

In response to your request, the Labor Market Statistics Center has verified that 550 Seabreeze Boulevard in Broward County, Florida is located in Census tract 421. The area consisting of contiguous Census tracts 406, 407, 414, 415, 417, and 421 qualifies as a high unemployment area under the provisions of the EB-5 Investor Visa Program. The 2011 annual average unemployment rate for the combined area was 13.7 percent, above the qualifying rate of 13.4 percent for that time period (see enclosed table).

The method used to estimate the unemployment rate in this area is called Census-share disaggregation, a standard U.S. Department of Labor, Bureau of Labor Statistics procedure used to calculate rates for small subcounty areas.

Since this area is located in the Miami-Fort Lauderdale-Pompano Beach Metropolitan Statistical Area, it is not considered a rural area. The area does qualify as a Targeted Employment Area however, due to its high unemployment rate.

Please call Suzanne Patterson at 850-245-7388, if you have any questions.

Sincerely,  
*[Signature]*  
Rudolpha Rust  
Director  
Labor Market Statistics Center

Enclosure

RR/fo

cc Michele Derrard

The Florida Department of Economic Opportunity  
1000 North Broward Boulevard, Suite 1000  
Fort Lauderdale, Florida 33304-1000  
Phone: 954-733-1000  
Fax: 954-733-1001  
www.floridadeo.com

As an equal opportunity employer, we do not discriminate on the basis of race, sex, religion, age, or national origin. We are an affirmative action employer. Minorities and women are encouraged to apply. For more information, please contact the Florida Department of Economic Opportunity at 1000 North Broward Boulevard, Suite 1000, Fort Lauderdale, Florida 33304-1000. Phone: 954-733-1000. Fax: 954-733-1001. www.floridadeo.com



# 其它文件



# LAS OLAS OCEAN RESORT

**CONSULTING**

December 31, 2018

Robert D. Lusk, III  
 10000 Lake Shore Drive, Suite 100  
 Lake Shore, Chicago, IL 60643  
 Phone: 773.330.1234  
 Fax: 773.330.1235  
 Email: rlusk@luskconsulting.com

Dear Mr. Lusk:

We have the honor to acknowledge the receipt of your letter dated November 29, 2018, regarding the proposed construction of the Las Olas Ocean Resort, located at 10000 Lake Shore Drive, Chicago, Illinois. We are pleased to provide you with the information requested in your letter.

A copy of the final report of the consultant, dated December 1, 2018, is being provided to you for your information. The report contains the findings of the consultant and the recommendations of the consultant regarding the proposed construction of the Las Olas Ocean Resort. We believe that the information provided in the report will be helpful to you in your decision-making process.

Very truly yours,  
 [Signature]  
 [Name]  
 [Title]

**IHG**  
 International Hotel Group  
 10000 Lake Shore Drive, Suite 100  
 Lake Shore, Chicago, IL 60643  
 Phone: 773.330.1234  
 Fax: 773.330.1235  
 Email: ihg@ihg.com

December 1, 2018

Mr. Robert D. Lusk, III  
 10000 Lake Shore Drive, Suite 100  
 Lake Shore, Chicago, IL 60643  
 Phone: 773.330.1234  
 Fax: 773.330.1235  
 Email: rlusk@luskconsulting.com

Re: **VIOLATION OF THE AGREEMENT FOR THE HOTEL PROJECT LOCATED AT 10000 LAKE SHORE DRIVE, CHICAGO, ILLINOIS**

Dear Mr. Lusk:

We are pleased to provide the enclosed with a copy of the final report of the consultant, dated December 1, 2018, regarding the proposed construction of the Las Olas Ocean Resort, located at 10000 Lake Shore Drive, Chicago, Illinois. We believe that the information provided in the report will be helpful to you in your decision-making process.

This report contains the findings of the consultant and the recommendations of the consultant regarding the proposed construction of the Las Olas Ocean Resort. We believe that the information provided in the report will be helpful to you in your decision-making process.

Should you have any questions or need further information, please do not hesitate to contact the Hotel Support Group at 773.330.1234.

Sincerely,  
 [Signature]  
 [Name]  
 [Title]

**Delaware**  
 "The First State"

STATE OF DELAWARE  
 DEPARTMENT OF STATE

NOTARIAL PUBLIC  
 JAMES M. HARRIS  
 10000 LAKE SHORE DRIVE  
 CHICAGO, ILLINOIS 60643  
 EXPIRES: 07-15-22

STATE OF DELAWARE  
 DEPARTMENT OF STATE

NOTARIAL PUBLIC  
 JAMES M. HARRIS  
 10000 LAKE SHORE DRIVE  
 CHICAGO, ILLINOIS 60643  
 EXPIRES: 07-15-22

施工许可证

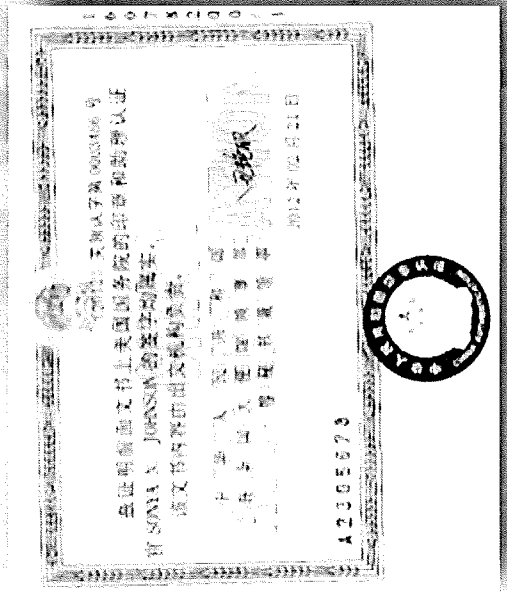
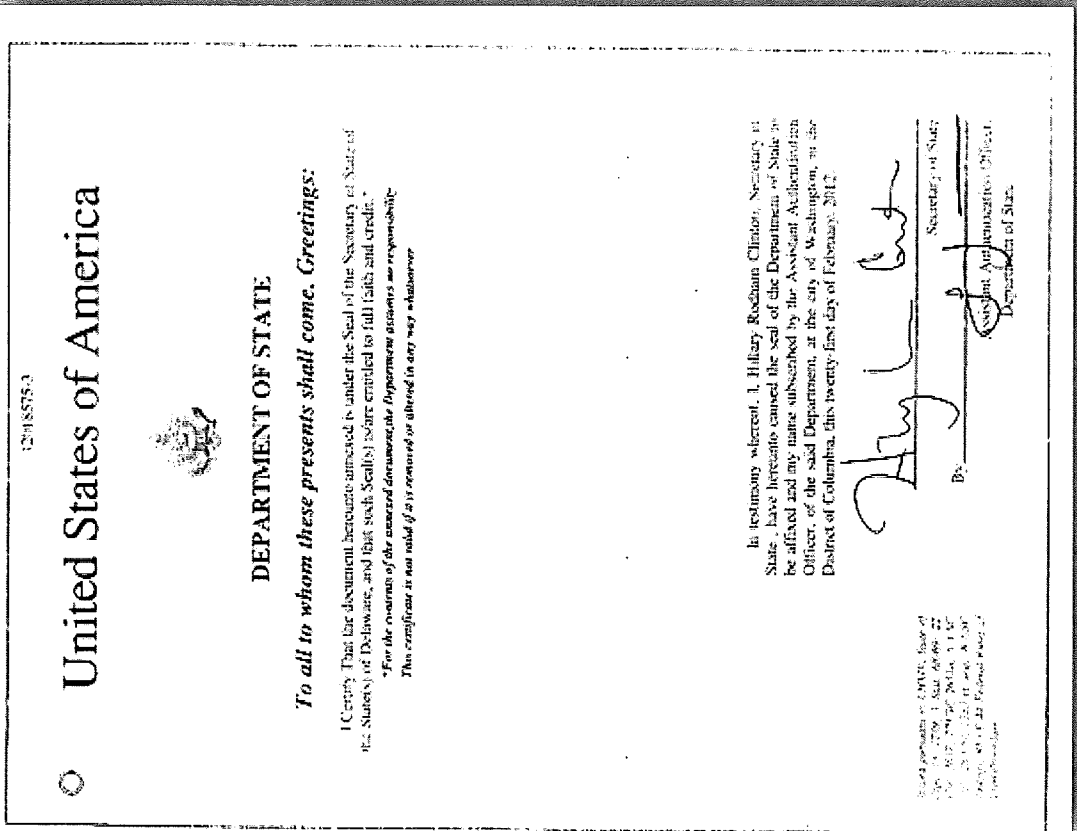
洲际酒店集团支持信

企业营业执照

+

其它文件

L A S O L A S O C E A N R E S O R T



左方: 希拉里克林顿

[Hillary Clinton] 授权

上方: 中国大使馆认证

前所未见

以前曾未有任何EB-5项目能与世界顶级的开发商  
在全美著名的海滨城市一同打造奢华的国际性海滨酒店

