

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: 3/17/09

Consent Regular
 Workshop Public Hearing

Department: Planning, Zoning, and Building Department
Submitted By: Planning, Zoning, and Building Department
Submitted For: Planning

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to: **A) adopt** resolutions of the Board of County Commissioners (BCC) of Palm Beach County, Florida, granting County tax exemptions for a total of two (2) historic properties located within the Town of Palm Beach; and **B) approve** restrictive covenants for each historic property, requiring the qualifying improvements be maintained during the period that the tax exemption is granted.

Summary: The resolutions will authorize a County tax exemption for the following historic properties located within the Town of Palm Beach:

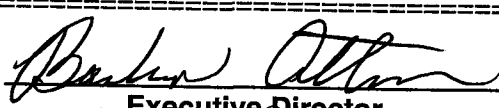
Address: 442 Seaspray Avenue
Address: One South County Road


If granted the tax exemption shall take effect January 1, 2009, and shall remain in effect for ten (10) years, or until December 31, 2018. The exemption shall apply to 100 percent of the assessed value of all improvements to each historic property, which resulted from restoration, renovation, or rehabilitation of the property. (Please see attached resolutions.) Based on the 2009 County Government Millage rate, it is estimated that approximately \$60,627.06 tax dollars will be exempted annually. Accompanying each resolution is a restrictive covenant, which requires the qualifying improvements be maintained during the period that each tax exemption is granted. District 1 (RB)

Background and Justification: On October 17, 1995, the BCC adopted a historic property tax exemption ordinance, Ordinance No. 95-41, applicable countywide. **(Continued on page three)**

Attachments:

1. Property Owner list:
442 Seaspray Avenue
One South County Road (The Breakers);
2. Resolutions (2 copies), Restrictive Covenant (1 copy) and Town of Palm Beach Historic Tax Exemption Resolution (1 copy)

Recommended By:  2/23/09
Executive Director Date

Approved By:  3/10/09
Deputy County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	* (see below)	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes _____ No _____
 Budget Account No.: Fund _____ Department _____ Unit _____ Object _____

Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

* There is no direct fiscal impact on the Planning, Zoning and Building Department from granting a tax exemption for this property. The overall County impact is a reduction of collectable taxes. Tax revenue is to be reduced at most by the tax on the improvements made to each structure. The estimated improvement costs attributed solely to work on these historic buildings totals \$16,034,240.00. Based on the 2009 County Government Millage rate (3.7811), it is estimated that approximately \$60,627.06 tax dollars will be exempted annually.

The estimated total tax exempted for the ten years ending December 31, 2018 is \$606,270.60 (\$60,627.06 * 10).

C. Departmental Fiscal Review: Pat D'Agostino

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

Jim Oul 3-2-09 OFMB
 2/28/09
 CN 2/25/09
John J. Jacob 3/5/09
 3/3/09 Contract Dev. and Control

B. Legal Sufficiency:

[Signature]
 Assistant County Attorney

C. Other Department Review:

 Department Director

(Continued from page one.)

The ordinance allows a qualifying local government to enter into an interlocal agreement with the County to perform review functions necessary to implement the ordinance within its municipal boundary. An Interlocal Agreement was approved by the BCC on April 2, 1996, R 96 442 D, authorizing the Town of Palm Beach Historic Preservation Board to perform the required review to implement the tax exemption ordinance on improvements to historic landmark properties within the town.

Each historic property has filed preconstruction applications and final applications with the Town of Palm Beach Historic Preservation Board. Following review of the completed improvements the Town's Historic Preservation Board determined the improvements were consistent with the U.S. Secretary of Interior's Standards for Rehabilitation and recommended approval for tax exemption. The Town of Palm Beach Commission then granted an ad valorem town tax exemption to each historic property.

One of the properties is a privately owned residence and the other property is a commercial property.

Copies of the Town of Palm Beach Historic Preservation Board Applications, and other back-up information for each of the two (2) properties is available for review at the County's Planning Division.

**2009 Town of Palm Beach
Historic Property Tax Exemption**

Property Owner - Address - Use of Building

Representative: Alex Gilmurray, Vice President Finance, CFO
Organization: The Breakers Palm Beach, Inc.
Property: One South County Road (The Breakers)
Town of Palm Beach, FL 33480
Use: Commercial

Owner: Robert D. and Jane Shipman
Property: 442 Seaspray Avenue
Town of Palm Beach, FL 33480
Use: Residential

RESOLUTION NO. R-2009-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, GRANTING AN AD VALOREM TAX EXEMPTION FOR THE HISTORIC REHABILITATION OF THE PROPERTY LOCATED AT 442 SEASPRAY AVENUE, PALM BEACH, AS FURTHER LEGALLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the citizens of Florida amended the Florida Constitution, Article VII, Section 3, to authorize counties and municipalities to grant a partial ad valorem tax exemption to owners of historic properties for improvements to such properties which are the result of the restoration, renovation, or rehabilitation of the historic properties; and

WHEREAS, the Board of County Commissioners has approved an ordinance providing for an ad valorem tax exemption for the restoration, renovation, and/or improvement of historic properties within the County (Ordinance No. 95-41); and

WHEREAS, the ad valorem tax exemption is one means of offering a financial incentive to increase interest in restoring, renovating, and improving the county's historic structures; and

WHEREAS, the Board of County Commissioners has approved an interlocal agreement with the Town of Palm Beach (R 96 442 D) for implementation of tax exemptions on improvements to historic landmark properties; and

WHEREAS, this interlocal agreement delegates review of properties within the Town of Palm Beach to the municipal historic preservation agency; and

WHEREAS, this property has been certified as a qualified property by the Town of Palm Beach based on the fact that the property is a locally designated historic property or landmark, in accordance with local historic preservation ordinance (31-93); and

WHEREAS, the property owner(s) Robert D. and Jane Shipman, filed a Preconstruction Application and received preliminary approval from the Town of Palm Beach Historic Preservation Board on July 20, 2007, for an ad valorem tax exemption

for the historic renovation and restoration of the property located at 442 Seaspray Avenue, Palm Beach and

WHEREAS, the Town of Palm Beach Historic Preservation Board reviewed the Final Application on July 29, 2008, for a determination that the completed improvements were consistent with the United States Secretary of Interior's Standards for Rehabilitation and recommended approval to grant an ad valorem City tax exemption to Robert D. and Jane Shipman for the restoration, renovation, and improvement to the property located at 442 Seaspray Avenue, Palm Beach, and

WHEREAS, the Town of Palm Beach Commission on November 12, 2008, determined that the completed improvements were consistent with the United States Secretary of Interior's Standards for Rehabilitation and granted an ad valorem City tax exemption to Robert D. and Jane Shipman for the restoration, renovation, and improvement to the property located at 442 Seaspray Avenue, Palm Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The Board of County Commissioners hereby approves an ad valorem County tax exemption to the property owners, Robert D. and Jane Shipman for a ten year period, commencing on January 1, 2009 from that portion of ad valorem County taxes levied on the increase in assessed value resulting from the renovation, restoration, and rehabilitation of the property located 442 Seaspray Avenue, Palm Beach, which property is as legally described as follows and which improvements are described in HPB Case No. 95-08:

Poinciana Park, 2nd Addition, E 16 FT of Lot 307 & Lots 309, 311 & Lot 313

2. Prior to the ad valorem tax exemption described herein being effective, Robert D. and Jane Shipman shall execute and record a restrictive covenant in a form established by the State of Florida, Department of State, Division of Historical

Resources, requiring the qualifying improvements be maintained during the period that the tax exemption is granted.

3. The Board finds that the property meets the requirements for tax exemption under section 196.1997, Florida Statutes.

4. The provisions of this resolution shall become effective upon the execution of this agreement.

5. One copy of this agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman
Commissioner Burt Aaronson, Vice Chairman
Commissioner Karen T. Marcus
Commissioner Shelley Vana
District 4
Commissioner Jess R. Santamaria
Commissioner Addie L. Greene

The Chairperson there upon declared the Resolution duly passed and adopted this _____ Day of _____, 2009 .

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK, CLERK & COMPTROLLER

BY: 
Asst. County Attorney

BY: _____
Deputy Clerk

HISTORIC PRESERVATION PROPERTY TAX EXEMPTION COVENANT

This Covenant is made this _____ day of _____, 2009, by Robert D. and Jane Shipman, (hereinafter referred to as the Owner) and in favor of Palm Beach County (hereinafter referred to as the Local Government) for the purpose of the restoration, renovation or rehabilitation, of a certain Property located at 442 Seaspray Avenue, Palm Beach, FL 33480 which is owned in fee simple by the Owner and is listed in the National Register of Historic Places or locally designated under the terms of a local preservation ordinance or is a contributing property to a National Register listed district or a contributing property to a historic district under the terms of a local preservation ordinance. The areas of significance of this property, as defined in the National Register nomination or local designation report for the property or the district in which it is located are x architecture, _____ history, archaeology.

The Property is comprised essentially of grounds, collateral, appurtenances, and improvements. The property is more particularly described as follows (include city reference, consisting of repository, book, and page numbers:

Poinciana Park 2nd Addition E 16 FT of Lot 307 and Lots 309, 311, & 313, according to the Plat thereof on file in the office of the clerk of the circuit court in and for Palm Beach County, Florida.

In consideration of the tax exemption granted by the Local Government, the Owner hereby agrees to the following for the period of the tax exemption that is from January 1, 2009 to December 31, 2018

1. The Owner agrees to assume the cost of the continued maintenance and repair of said Property so as to preserve the architectural, historical, or archaeological integrity of the same in order to protect and enhance those qualities that made the Property eligible for listing in the National Register of Historic Places or designation under the provisions of the preservation ordinance.
2. The Owner agrees that no structural alterations will be made to the Property without prior written permission of the Local Historic Preservation Office. The address of the certified Local Historic Preservation Office is, if one exists in the jurisdiction:

Town of Palm Beach
Planning, Zoning and Building Department
60 South County Road
Palm Beach, FL 33480
Telephone Number: (561) 227-6414

The address of the Division of Historic Resources is:
Bureau of Historic Preservation
Division of Historical Resources
R.A. Gray Building, 500 South Bronough Street
Tallahassee, Florida 32399-0250
Telephone Number: (850) 487-2333

3. [Only for properties of archaeological significance] The Owner agrees to ensure the protection of the site against willful damage or vandalism. Nothing in this Covenant shall prohibit the Owner from developing the site in such a manner that will not threaten or damage the archaeological resource, provided that permission for alteration of the site is obtained pursuant to 2. Above.

4. The Owner agrees that the Local Historic Preservation Office and appropriate representatives of the Local Government, their agents and designees shall have the right to inspect the Property at all reasonable times in order to ascertain whether or not the conditions of this covenant are being observed.

5. In the event of the non-performance or violation of the maintenance provision of the Covenant by the Owner or any successor-in-interest during the term of the Covenant, the Local Historic Preservation Office will report such violation to the Property Appraiser and Tax Collector who shall take action pursuant to s. 196.1997 (7), F.S. The Owner shall be required to pay the difference between the total amount of taxes which would have been due in March in each of the previous years in which the Covenant was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s. 212.12 (3) F.S.

6. If the Property is damaged by accidental or natural causes during the Covenant period, the Owner will inform the Local Historic Preservation Office in writing of the damage to the Property, including (1) an assessment of the nature and extent of the damage; and (2) an estimate of the cost of restoration or reconstruction work necessary to return the Property to the condition existing at the time of project completion. In order to maintain the tax exemption, the Owner shall complete the restoration or reconstruction work necessary to return the Property to the condition existing at the time of project completion on a schedule agreed upon by the Owner and the Local Historic Preservation Office.

7. If the Property has been destroyed or severely damaged by accidental or natural causes, that is, if the historical integrity of the features, materials, appearance, workmanship, and environment, or archaeological integrity which made property eligible for listing in the National Register of Historic Places or designation under the terms of the local preservation ordinance have lost or so damaged that restoration is not feasible, the Owner will notify the Local Historic Preservation Office in writing of the loss. The Local Historic Preservation Office will evaluate the information provided and notify the Owner in writing of its determination regarding removal of the Property from eligibility for tax exemption. If the Local Historic Preservation Office determines that the property should be removed from eligibility for tax exemption, it will notify the Property Appraiser of the county in which the Property is located in writing so that the tax exemption can be canceled for the remainder of the Covenant period. In such cases, no penalty or interest shall be assessed against the Owner.

8. If it appears that the historical integrity of the features, materials, appearance, workmanship, and environment, or archaeological integrity which made the Property eligible for listing in the National Register of Historic Places or designation under the terms of the local preservation ordinance have been lost or damaged deliberately or through gross negligence of the Owner, the Local Historic Preservation Office shall notify the Owner in writing. For the purpose of this Covenant, "gross negligence" means

omission of care that even inattentive and thoughtless persons never fail to take of their own property. The Owner shall have 30 days to respond indicating any circumstances which show that the damage was not deliberate or due to gross negligence. If the Owner cannot show such circumstances, he shall develop a plan for restoration of the Property and a schedule for completion of the restoration. In order to maintain the tax exemption, the Owner shall complete the restoration work necessary to return the Property to the condition existing at the time of project completion on a time schedule agreed upon by the Owner and the Local Historic Preservation Office. If the Owner does not complete the restoration work on the agreed upon time schedule, the Local Historic Preservation Office will report such violation to the Property Appraiser and Tax Collector who shall take action pursuant to s. 196.1997 (7), F.S. The Owner shall be required to pay the differences between the total amount of taxes which would have been due in March in each of the previous years in which the Covenant was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s. 212.12 (3), F.S.

9. The terms of this Covenant shall be binding on the current Property owner, transferees, and their heirs, successors, or assigns.

This Covenant shall be enforceable in specific performance by a court of competent jurisdiction.

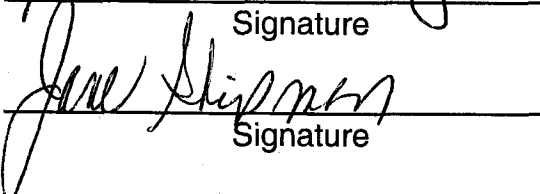
OWNER(S):

Robert D. Shipman
Name


Signature

1/8/09
Date

Jane Shipman
Name


Signature

1/8/09
Date

IN WITNESS WHEREOF, the Owner and Local Government have executed or have caused this Agreement.

ATTEST:

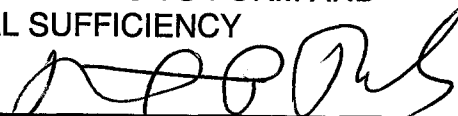
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

Sharon R. Bock, Clerk & Comptroller

BY: _____
Deputy Clerk

BY: _____
Chairperson

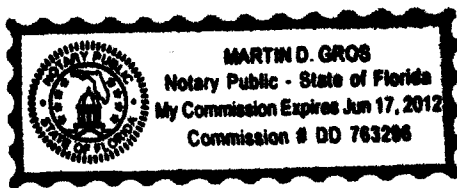
APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: 
County Attorney

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 8 day of January, 2009, by Robert D Shipman, Jane Shipman, who are personally known to me or who have produced Florida DL, and Florida DL, respectively, (indicate form of identification) (if left blank personal knowledge existed) as identification.





Notary Public State of Florida

Notary Print Name:

Martin D. Gros

My Commission Expires:

6-17-2012

(NOTARY SEAL)

RESOLUTION NO. 95-08

442 SEASPRAY AVENUE

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING AD VALOREM TAX EXEMPTIONS FOR THE PROPERTY HEREINAFTER DESCRIBED (442 SEASPRAY AVENUE) AND STATING THAT THE SUBJECT PROPERTY MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 31-93, ALSO KNOWN AS CHAPTER 54, ARTICLE V OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, RELATING TO LANDMARKS PRESERVATION AND TITLED "TAX EXEMPTIONS."

WHEREAS, pursuant to the provisions of Ordinance 31-93 (Chapter 54, Article V Code of Ordinances of the Town of Palm Beach) the Landmarks Preservation Commission of the Town of Palm Beach held public hearings and approved Certificates of Appropriateness for renovations and improvements of the certain property described herein; and

WHEREAS, where those improvements are consistent with the United States Secretary of Interior's Standards for Rehabilitation and were made in accordance with the guidelines developed by the Department of State, they will qualify for said tax exemption; and

WHEREAS, the property owner agrees to enter into a covenant or agreement with the Town for the ten year term for which the exemption is granted.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The property hereinafter described in Section 2 of this Resolution, being a designated landmark of the Town of Palm Beach, is hereby approved for the Ad Valorem Tax Exemptions for Historic Properties, pursuant to the provisions of Ordinance 31-93.

Section 2. The landmark is owned by Robert and Jane Shipman and is located at 442 Seasapray Avenue. The property is legally described as follows:

Tax Folio Number: 50-43-43-22-07-000-3071
Legal Description: Poinciana Park, 2nd Addition, E 16 FT of Lot 307 & Lots 309, 311 & Lot 313

Section 3. The Town Clerk is hereby ordered to furnish the owner of the property a copy of this Resolution.

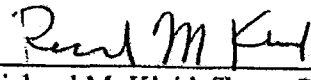
Section 4. By March 1, a copy of this Resolution with a completed application for Ad Valorem Tax Exemptions will be filed with the Property Appraiser's Office as defined in and subject

to the provision of Ordinance 31-93 and the Code of Ordinances of the Town of Palm Beach, Florida.


PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 12 day of November 2008.



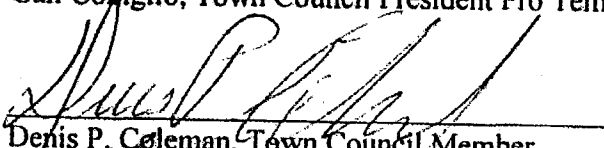
Jack McDonald, Mayor



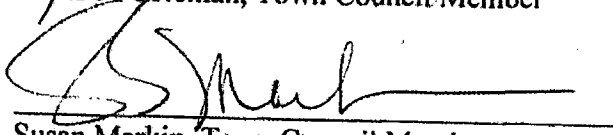
Richard M. Kleid, Town Council President



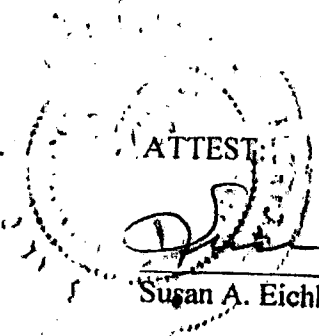
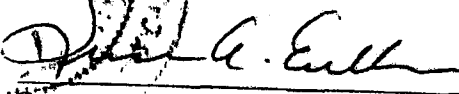
Gail Coniglio, Town Council President Pro Tem




Denis P. Coleman, Town Council Member



Susan Markin, Town Council Member


ATTEST:


Susan A. Eichhorn, Town Clerk



David A. Rosow, Town Council Member

RESOLUTION NO. R-2009-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, GRANTING AN AD VALOREM TAX EXEMPTION FOR THE HISTORIC REHABILITATION OF THE PROPERTY LOCATED AT ONE SOUTH COUNTY ROAD, PALM BEACH, AS FURTHER LEGALLY DESCRIBED HEREIN; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the citizens of Florida amended the Florida Constitution, Article VII, Section 3, to authorize counties and municipalities to grant a partial ad valorem tax exemption to owners of historic properties for improvements to such properties which are the result of the restoration, renovation, or rehabilitation of the historic properties; and

WHEREAS, the Board of County Commissioners has approved an ordinance providing for an ad valorem tax exemption for the restoration, renovation, and/or improvement of historic properties within the County (Ordinance No. 95-41); and

WHEREAS, the ad valorem tax exemption is one means of offering a financial incentive to increase interest in restoring, renovating, and improving the county's historic structures; and

WHEREAS, the Board of County Commissioners has approved an interlocal agreement with the Town of Palm Beach (R 96 442 D) for implementation of tax exemptions on improvements to historic landmark properties; and

WHEREAS, this interlocal agreement delegates review of properties within the Town of Palm Beach to the municipal historic preservation agency; and

WHEREAS, this property has been certified as a qualified property by the Town of Palm Beach based on the fact that the property is a locally designated historic property or landmark, in accordance with local historic preservation ordinance (31-93); and

WHEREAS, the property owner(s) The Breakers Palm Beach, Inc., filed a Preconstruction Application and received preliminary approval from the Town of Palm Beach Historic Preservation Board on April 28, 2007, for an ad valorem tax exemption

for the historic renovation and restoration of the property located at One South County Road, Palm Beach and

WHEREAS, the Town of Palm Beach Historic Preservation Board reviewed the Final Application on November 1, 2008, for a determination that the completed improvements were consistent with the United States Secretary of Interior's Standards for Rehabilitation and recommended approval to grant an ad valorem City tax exemption to The Breakers Palm Beach, Inc. for the restoration, renovation, and improvement to the property located at One South County Road, Palm Beach, and

WHEREAS, the Town of Palm Beach Commission on November 12, 2008, determined that the completed improvements were consistent with the United States Secretary of Interior's Standards for Rehabilitation and granted an ad valorem City tax exemption to The Breakers Palm Beach, Inc. for the restoration, renovation, and improvement to the property located at One South County Road, Palm Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The Board of County Commissioners hereby approves an ad valorem County tax exemption to the property owners, The Breakers Palm Beach, Inc. for a ten year period, commencing on January 1, 2009 from that portion of ad valorem County taxes levied on the increase in assessed value resulting from the renovation, restoration, and rehabilitation of the property located One South County Road, Palm Beach, which property is as legally described as follows and which improvements are described in HPB Case No. 96-08:

Tract 4 of Breakers Row Plat No. 1 – Replat, as recorded in Plat Book 46, page 188, Public Records of Palm Beach County

2. Prior to the ad valorem tax exemption described herein being effective, The Breakers Palm Beach, Inc. shall execute and record a restrictive covenant in a form established by the State of Florida, Department of State, Division of

Historical Resources, requiring the qualifying improvements be maintained during the period that the tax exemption is granted.

3. The Board finds that the property meets the requirements for tax exemption under section 196.1997, Florida Statutes.

4. The provisions of this resolution shall become effective upon the execution of this agreement.

5. One copy of this agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman
Commissioner Burt Aaronson, Vice Chairman
Commissioner Karen T. Marcus
Commissioner Shelley Vana
District 4
Commissioner Jess R. Santamaria
Commissioner Addie L. Greene

The Chairperson there upon declared the Resolution duly passed and adopted this _____ Day of _____, 2009 .

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK, CLERK & COMPTROLLER

BY: _____

Asst. County Attorney

BY: _____

Deputy Clerk

HISTORIC PRESERVATION PROPERTY TAX EXEMPTION COVENANT

This Covenant is made this _____ day of _____, 2009, by The Breakers Palm Beach, Inc. (hereinafter referred to as the Owner) and in favor of Palm Beach County (hereinafter referred to as the Local Government) for the purpose of the restoration, renovation or rehabilitation, of a certain Property located at One South County Road, Palm Beach, FL 33480, which is owned in fee simple by the Owner and is listed in the National Register of Historic Places or locally designated under the terms of a local preservation ordinance or is a contributing property to a National Register listed district or a contributing property to a historic district under the terms of a local preservation ordinance. The areas of significance of this property, as defined in the National Register nomination or local designation report for the property or the district in which it is located are x architecture, _____ history, _____ archaeology.

The Property is comprised essentially of grounds, collateral, appurtenances, and improvements. The property is more particularly described as follows (include city reference, consisting of repository, book, and page numbers:

Tract 4 of Breakers Row Plat No. 1 – Replat, as recorded in Plat
Book 46, page 188, on file in the office of the clerk of the circuit
court in and for Palm Beach County, Florida.

In consideration of the tax exemption granted by the Local Government, the Owner hereby agrees to the following for the period of the tax exemption that is from January 1, 2009 to December 31, 2018

1. The Owner agrees to assume the cost of the continued maintenance and repair of said Property so as to preserve the architectural, historical, or archaeological integrity of the same in order to protect and enhance those qualities that made the Property eligible for listing in the National Register of Historic Places or designation under the provisions of the preservation ordinance.

2. The Owner agrees that no structural alterations will be made to the Property without prior written permission of the Local Historic Preservation Office. The address of the certified Local Historic Preservation Office is, if one exists in the jurisdiction:

Town of Palm Beach
Planning, Zoning and Building Department
60 South County Road
Palm Beach, FL 33480
Telephone Number: (561) 227-6414

The address of the Division of Historic Resources is:
Bureau of Historic Preservation
Division of Historical Resources
R.A. Gray Building, 500 South Bronough Street
Tallahassee, Florida 32399-0250
Telephone Number: (850) 487-2333

3. [Only for properties of archaeological significance] The Owner agrees to ensure the protection of the site against willful damage or vandalism. Nothing in this Covenant shall prohibit the Owner from developing the site in such a manner that will not threaten or damage the archaeological resource, provided that permission for alteration of the site is obtained pursuant to 2. Above.

4. The Owner agrees that the Local Historic Preservation Office and appropriate representatives of the Local Government, their agents and designees shall have the right to inspect the Property at all reasonable times in order to ascertain whether or not the conditions of this covenant are being observed.

5. In the event of the non-performance or violation of the maintenance provision of the Covenant by the Owner or any successor-in-interest during the term of the Covenant, the Local Historic Preservation Office will report such violation to the Property Appraiser and Tax Collector who shall take action pursuant to s. 196.1997 (7), F.S. The Owner shall be required to pay the difference between the total amount of taxes which would have been due in March in each of the previous years in which the Covenant was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s. 212.12 (3) F.S.

6. If the Property is damaged by accidental or natural causes during the Covenant period, the Owner will inform the Local Historic Preservation Office in writing of the damage to the Property, including (1) an assessment of the nature and extent of the damage; and (2) an estimate of the cost of restoration or reconstruction work necessary to return the Property to the condition existing at the time of project completion. In order to maintain the tax exemption, the Owner shall complete the restoration or reconstruction work necessary to return the Property to the condition existing at the time of project completion on a schedule agreed upon by the Owner and the Local Historic Preservation Office.

7. If the Property has been destroyed or severely damaged by accidental or natural causes, that is, if the historical integrity of the features, materials, appearance, workmanship, and environment, or archaeological integrity which made property eligible for listing in the National Register of Historic Places or designation under the terms of the local preservation ordinance have lost or so damaged that restoration is not feasible, the Owner will notify the Local Historic Preservation Office in writing of the loss. The Local Historic Preservation Office will evaluate the information provided and notify the Owner in writing of its determination regarding removal of the Property from eligibility for tax exemption. If the Local Historic Preservation Office determines that the property should be removed from eligibility for tax exemption, it will notify the Property Appraiser of the county in which the Property is located in writing so that the tax exemption can be canceled for the remainder of the Covenant period. In such cases, no penalty or interest shall be assessed against the Owner.

8. If it appears that the historical integrity of the features, materials, appearance, workmanship, and environment, or archaeological integrity which made the Property eligible for listing in the National Register of Historic Places or designation under the terms of the local preservation ordinance have been lost or damaged deliberately or through gross negligence of the Owner, the Local Historic Preservation Office shall notify the Owner in writing. For the purpose of this Covenant, "gross negligence" means

omission of care that even inattentive and thoughtless persons never fail to take of their own property. The Owner shall have 30 days to respond indicating any circumstances which show that the damage was not deliberate or due to gross negligence. If the Owner cannot show such circumstances, he shall develop a plan for restoration of the Property and a schedule for completion of the restoration. In order to maintain the tax exemption, the Owner shall complete the restoration work necessary to return the Property to the condition existing at the time of project completion on a time schedule agreed upon by the Owner and the Local Historic Preservation Office. If the Owner does not complete the restoration work on the agreed upon time schedule, the Local Historic Preservation Office will report such violation to the Property Appraiser and Tax Collector who shall take action pursuant to s. 196.1997 (7), F.S. The Owner shall be required to pay the differences between the total amount of taxes which would have been due in March in each of the previous years in which the Covenant was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s. 212.12 (3), F.S.

9. The terms of this Covenant shall be binding on the current Property owner, transferees, and their heirs, successors, or assigns.

This Covenant shall be enforceable in specific performance by a court of competent jurisdiction.

OWNER(S): The Breakers Palm Beach, Inc.

Alex Gilmurray
Name


Signature

1/8/09
Date

V.P. FINANCE/CFO
Title

IN WITNESS WHEREOF, the Owner and Local Government have executed or have caused this Agreement.

ATTEST:

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

Sharon R. Bock, Clerk & Comptroller

BY: _____
Deputy Clerk

BY: _____
Chairman

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: 
County Attorney

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 8th day of January, 2009, by Alex Coilmurray, who ~~are~~^{is} personally known to me or who have produced _____, and _____, respectively, (indicate form of identification) (if left blank personal knowledge existed) as identification.

Maria F. LaForte

Notary Public State of Florida

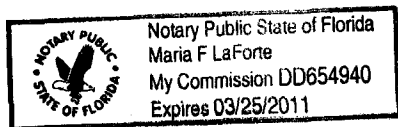
Notary Print Name:

Maria F. LaForte

My Commission Expires:

03/25/2011

(NOTARY SEAL)



RESOLUTION NO. 96 - 08

THE BREAKERS HOTEL

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING AD VALOREM TAX EXEMPTIONS FOR THE PROPERTY HEREINAFTER DESCRIBED (THE BREAKERS HOTEL) AND STATING THAT THE SUBJECT PROPERTY MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 31-93, ALSO KNOWN AS CHAPTER 54, ARTICLE V OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, RELATING TO LANDMARKS PRESERVATION AND TITLED "TAX EXEMPTIONS."

WHEREAS, pursuant to the provisions of Ordinance 31-93 (Chapter 54, Article V Code of Ordinances of the Town of Palm Beach) the Landmarks Preservation Commission of the Town of Palm Beach held public hearings and approved Certificates of Appropriateness for renovations and improvements of the certain property described herein; and

WHEREAS, where those improvements are consistent with the United States Secretary of Interior's Standards for Rehabilitation and were made in accordance with the guidelines developed by the Department of State, they will qualify for said tax exemption; and

WHEREAS, the property owner agrees to enter into a covenant or agreement with the Town for the ten year term for which the exemption is granted.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The property hereinafter described in Section 2 of this Resolution, being listed in the National Register of Historic Places, is hereby approved for the Ad Valorem Tax Exemptions for Historic Properties, pursuant to the provisions of Ordinance 31-93.

Section 2. The landmark is owned by The Breakers Palm Beach, Inc., and is located at One County Road. The property is legally described as follows:

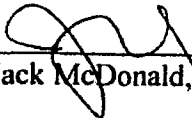
Tax Folio Number: 50-43-43-22-24-004-0000
Legal Description: Tract 4 of Breakers Row Plat No. 1 - Replat, as recorded in
Plat Book 46, page 188, Public Records of Palm Beach
County

Section 3. The Town Clerk is hereby ordered to furnish the owner of the property a copy of this Resolution.

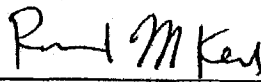
Section 4. By March 1, a copy of this Resolution with a completed application for Ad

Valorem Tax Exemptions will be filed with the Property Appraiser's Office as defined in and subject to the provision of Ordinance 31-93 and the Code of Ordinances of the Town of Palm Beach, Florida.

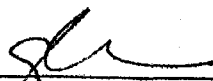
PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach assembled this 12 day of November 2008.



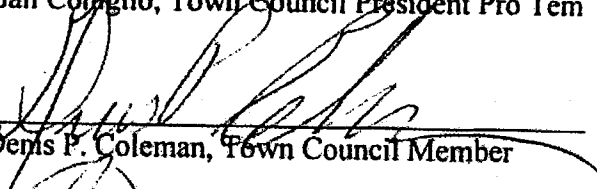
Jack McDonald, Mayor



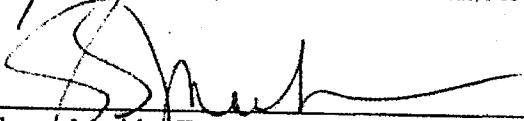
Richard M. Kleid, Town Council President



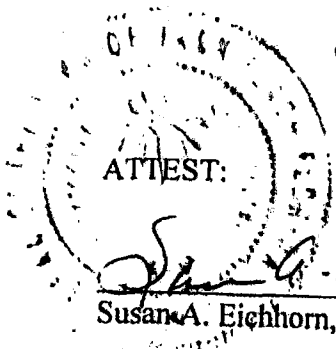
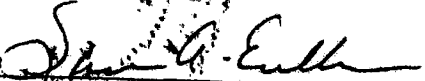
Gail Conglio, Town Council President Pro Tem



Denis P. Coleman, Town Council Member



Susan Markin, Town Council Member


ATTEST:


Susan A. Eichhorn, Town Clerk



David A. Rosow, Town Council Member