

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

APPELLATE DIVISION

CASE NO. 14-200 AP

L.T. CASE NO. 08-0105sc

OMNI/PARK WEST
REDEVELOPMENT
ASSOCIATION, INC., and
GC LOUNGE, INC.

Petitioners,

vs.

CITY OF MIAMI, FLORIDA,
a political subdivision of the State
of Florida, MIAMI FIRST, LLC,
MIAMI SECOND, LLC, MIAMI
THIRD, LLC, MIAMI FOURTH,
LLC, and MIAMI A/I, LLC,

Respondents.

FILED BY BENNETT
2014 AUG 28 PM 3:54
CLERK CIRCUIT COURT
MIAMI-DADE COUNTY FLA.
CIVIL #85

**ORDER ON RESPONDENTS MIAMI FIRST, LLC, MIAMI SECOND, LLC,
MIAMI THIRD, LLC, and MIAMI A/I, LLC'S MOTION TO DISMISS
PETITION FOR WRIT OF CERTIORARI FOR LACK OF STANDING**

THIS CAUSE came before this Court on July 31, 2014 on Respondents, Miami First, LLC, Miami Second, LLC, Miami Third, LLC and Miami A/I, LLC's, Motion to Dismiss Petition for Writ of Certiorari for Lack of Standing. The Court has reviewed the memoranda of law and is otherwise advised in the premises. The Motion is **GRANTED IN PART AND DENIED IN PART** for the following reasons:

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- 1) To have standing, a property owner must have a definite interest, exceeding the general interest in the community good which all citizens share in common, based on factors such as the proximity of the property and the type of change proposed. *See Renard v. Dade County*, 261 So. 2d 832 (Fla. 1972); *City of Ft. Myers v. Splitt*, 988 So. 2d 28, 32 (Fla. 2d DCA 2008).
- 2) Petitioner Omni/Park West Redevelopment Association, Inc., a non-profit corporation that does business on N.E. 7th Street, does not have standing to bring the petition for writ of certiorari to seek review of the resolution of the City of Miami Commission. Petitioner is not an aggrieved party because it did not appear below and argue or present evidence before the City of Miami Commission at the April 24, 2014 hearing regarding the application for road closures. *See Battaglia Fruit Co. v. City of Maitland*, 530 So. 2d 943, 944 (Fla. 5th DCA), *dismissed*, 537 So. 2d 568 (Fla. 1988). Petitioner appeared and argued only at the administrative Miami Planning, Zoning and Appeals Board (PZAB) March 19, 2014 hearing. The resulting unanimous decision from that hearing approving the application for road closures with conditions [Resolution PZAB-R-14-023] is not under review before this Court. *See Weil v. City of N. Miami*, 10 Fla. L. Weekly C775 (Fla. 11th Cir. Ct. Aug. 12, 2003) (on certiorari review of city council's decision, circuit court reviews that decision, not lower board's decision). Therefore, Petitioner Omni/Park West Redevelopment Association, Inc. lacks of standing to bring this petition for writ of certiorari.
- 3) Petitioner GC [Grand Central] Lounge, Inc. is an operator of a nightclub on N.E. 7th Street under a lease as a tenant with the Respondent Miami Fourth, LLC. Petitioner has standing as an aggrieved party to bring the petition for writ of certiorari from a unanimous resolution of the City of Miami Commission approving an application for road closures [Resolution 08-01015sc]. Petitioner appeared below and argued before the City of Miami Commission at the April 24, 2014 hearing regarding the approval of an application to close sections of N.E. 7th, 8th and 9th Streets between North Miami Avenue and N.E. 2nd Avenue and N.E. 10th Street and the Florida East Coast Railway. Petitioner was also present at the March 19, 2014 hearing PZAB hearing and argued against the road closures.
- 4) Further, Petitioner GC Lounge, Inc. has standing because it seeks as an affected resident or citizen to challenge the Resolution as being void because it was improperly enacted. *Renard*, 261 So. 2d at 837-838; *Save Brickell Avenue Inc. v. City of Miami*, 395 So. 2d 246, 247 (Fla. 3d DCA 1981). Therefore, Petitioner GC Lounge, Inc. has standing to bring this petition for writ of certiorari.

It is therefore **ORDERED AND ADJUDGED** that:

Submitted into the public
record for item(s) p.1
on 7.12.15 City Clerk

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Respondents, Miami First, LLC, Miami Second, LLC, Miami Third, LLC and Miami A/I,
LLC's, Motion to Dismiss Petition for Writ of Certiorari for Lack of Standing is hereby
GRANTED as to Petitioner Omni/Park West Redevelopment Association, Inc. **AND DENIED**
as to Petitioner GC Lounge, Inc.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, this 26th day of
August, 2014.


ERIC W. HENDON
CIRCUIT COURT JUDGE


MIGUEL M. DE LA O
CIRCUIT COURT JUDGE

Copies furnished to:

Paul C. Savage, Esq.
John A. Greco, Esq., Deputy City Attorney
Elliot H. Scherker, Esq.
Brigid F. Cech Samole, Esq.