

METROPOLITAN DADE COUNTY HISTORIC PRESERVATION BOARD

RESOLUTION NUMBER: R-9504

HISTORIC ARCH CREEK ROAD

Dade County, Florida

January 18, 1995

**NOTICE OF APPEAL**

**SECTION 16A-15, METROPOLITAN DADE COUNTY CODE**

Appeal under Section 16A-15, Metropolitan Dade County Code to the Board of County Commissioners, Dade County, Florida, of the action of Metropolitan Dade County Historic Preservation Board in regard to Historic Arch Creek Road located in Dade County, Florida, particularly Resolution Number R-9504.

Appellant, Edna Ben-Zvi, the surviving widow of Jeremiah Ben-Zvi, Appellant, does herewith appeal the action of the Metropolitan Dade County Historic Preservation Board in regard to Historic Arch Creek Road located in Dade County, Florida, particularly Resolution Number R-9504.

The Historic Preservation Board designated the Historic Arch Creek Road as a local historic site pursuant to Metropolitan Dade County Historic Preservation Ordinance Number 81-13. The site is legally described in Resolution Number R-9504, a copy of which Resolution is attached hereto, marked Exhibit "A" and made a part hereof.

The site described in Resolution Number R-9504 is 40' wide, running from the FEC right-of-way to the edge of properties owned by various entities, including Appellant's property, legally described as:

Lots 9 through 18, and Lots 32 through 38, in Block 5, of ARCH CREEK HIGHLANDS, according to the Plat thereof, as recorded in Plat Book 15, at Page 3, of the Public Records of Dade County, Florida, less that portion taken for additional right-of-way by FDOT.

The Historic Preservation Board in the designation of the right-of-way at 40' exceeds by 20' that portion described in its Application. In addition it exceeds what would have been a roadway traveled by Captain Abner Doubleday in the 1800s, as set forth in the Application for Designation.

The Historic Preservation Board failed to take into consideration the action of the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida, General Jurisdiction, in Civil Action Number 93-04923, Parcel Number 124, wherein the State of Florida, Department of Transportation, Appellant and the City of North Miami Beach entered into a Stipulated Partial Judgment as to a parcel of land owned by the Appellant, a copy of which is attached hereto, marked Exhibit "B" and made a part hereof.

As a result of the Historic Preservation Board's action without consideration of the Circuit Court case reflected above, the funds escrowed by the Appellant in conformity with the Stipulation and Order thereon have been placed in jeopardy and are subject to forfeiture. In addition the sums paid by the Florida Department of

Transportation to the Appellant in settlement of the Circuit Court case and the Stipulation thereto pertaining were based on the City of North Miami Beach agreeing to deed to the Appellant a portion of Old Dixie Highway to be utilized in conformity with the Plans and Specifications attached to the Circuit Court Stipulation.

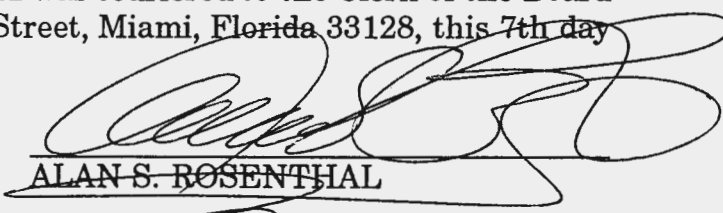
The action of the Historic Preservation Board in failing to designate a portion of the roadway as a historic site subject to the Stipulation and Order of the Circuit Court will impact the Appellant's rights and cause Appellant extreme hardship and damages.

WHEREFORE, Appellant requests that the Board of County Commissioners, Dade County, Florida, reverse the action of the Historic Preservation Board so as to preserve the rights of the Appellant.

ROSENTHAL ROSENTHAL & RASCO  
Attorneys for Appellant  
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North Miami Beach, Florida 33162  
(305) 944-1411

BY   
ALAN S. ROSENTHAL

I HEREBY CERTIFY that the original was couriered to the Clerk of the Board of County Commissioners, 111 N. W. First Street, Miami, Florida 33128, this 7th day of February, 1995.

  
ALAN S. ROSENTHAL

cc: Howard Lenard, Esquire, City Attorney  
Darcee Siegel, Esquire  
Tom Logue, Esquire  
Maureen Harwitz, Esquire  
Mr. Bob Carr

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- C. Special Certificate of Appropriateness  
24850 SW 187 Avenue  
Redland District
- D. Certificate of Appropriateness  
for the repairs of the  
Greynolds Park Campgrounds
- E. Certificate of Appropriateness  
Charles Deering Estate  
16700 Old Cutler Road for:
  - 1. (#7) Existing Historic Buildings  
Restoration/Reconstruction  
Compliance with ADA
  - 2. (#8) Existing Historic Buildings  
Restoration/Reconstruction  
Compliance with Building and  
Zoning Requirements
  - 3. (#9) Existing Historic Buildings  
Interior Finishes Schedule
  - 4. (#10) Boat basin Tree Removal/Replacement

V. NEW BUSINESS

- A. Initiation for Designation of  
Killian Drive
- B. Proposed Revisions to the Historic Preservation  
Ordinance
- C. Presentation on Intermodal Transportation Project

VI. OLD BUSINESS

Stonegate Update

VII. COMMENTS FROM THE BOARD

VIII. ADJOURNMENT