

RESOLUTION NO. 2010- 1990

A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA, APPROVING AN AGREEMENT WITH WEISS SEROTA HELFMAN PASTORIZA COLE & BONISKE P.A. TO REPRESENT THE TOWN IN THE CASE CAPTIONED YOUNG ISRAEL OF BAL HARBOUR, INC. V. TOWN OF SURFSIDE CASE NO: 10-CV-24392 IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town Commission of the Town of Surfside, Florida ("TOWN") wishes to enter into a retainer agreement with Weiss Serota to represent the Town in the litigation captioned Young Israel of Bal Harbour v. Town of Surfside; and

WHEREAS, the Town Commission believes that it is in the best interest of the Town to enter into this agreement attached as Exhibit "A" inasmuch as the firm has assisted in the creation of the RLUIPA Ordinance, is familiar with the entire four year history surrounding this matter, and has been involved in three RLUIPA cases in other municipalities in South Florida;

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above and foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Authorization. The Town Commission hereby authorizes the execution of the retainer agreement attached hereto as Exhibit "A" on the terms contained therein and authorizes the Town Attorney and Town Manager to do all things necessary to effectuate this Agreement.

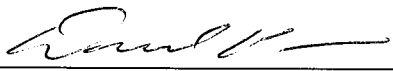
Section 3. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED and **ADOPTED** on this 14th day of December, 2010.

Motion by Commissioner Karukin, second by Commissioner Kopelman.

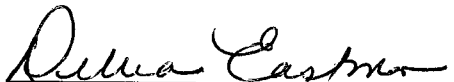
FINAL VOTE ON ADOPTION

| | |
|------------------------------|------------|
| Commissioner Michael Karukin | <u>yes</u> |
| Commissioner Edward Kopelman | <u>yes</u> |
| Commissioner Marta Olchyk | <u>yes</u> |
| Vice Mayor Joseph Graubart | <u>no</u> |
| Mayor Daniel Dietch | <u>yes</u> |



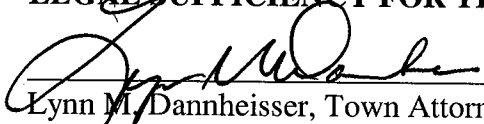
Daniel Dietch, Mayor

ATTEST:



Debra E. Eastman, MMC
Town Clerk

**APPROVED AND TO FORM AND
LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:**



Lynn M. Dannheisser, Town Attorney

**WEISS SEROTA HELFMAN
PASTORIZA COLE & BONISKE, P.L.**

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JAMES E. WHITE
DEREK R. YOUNG

December 13, 2010

VIA EMAIL AND REGULAR MAIL

ldannheisser@townofsurfsidefl.gov

Lynn Dannheisser, Esq.

Town Attorney

Town of Surfside Town Hall

9293 Harding Avenue

Surfside, FL 33154

Re: Young Israel of Bal Harbour, Inc. v Town of Surfside

Dear Lynn:

We are pleased that you wish to engage our Firm to perform legal services for the Town of Surfside. From our experience, we have found that clients appreciate a frank and open discussion and understanding of the services that we will perform and the basis upon which they will be expected to pay for those services.

This letter is intended to set forth our understanding as to the nature and scope of the legal services we have agreed to render for you, the amount of our fees for those services, the manner in which our fees for those services shall be determined and the terms upon which you will make payment.

1. Nature of Legal Services. You have engaged us with regard to the above-referenced pending litigation, and any and all issues related to the subject matter of the litigation.
2. Fees for Services. You will be charged and agree to pay for our services on

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the basis of hourly rates established from time to time for the attorneys in our Firm, together with applicable taxes if any. It is contemplated that Joseph Serota and Susan Trevarthen will have primary responsibility for this matter. The discounted, blended hourly rate to be charged for the time of all partners on this matter, to you as a governmental client, is \$250, with \$215 for associates, and \$95 for paralegals. It is our practice to charge for actual time expended on your behalf, but not less than 2/10ths of an hour for each activity.

3. Costs. In addition to the attorneys fees discussed in paragraph 2, the firm will add a 2.5% administrative fee to each bill to cover administrative costs such as delivery charges, long distance telephone charges, photocopies (xerox), postage, faxes, and computer research expenses. Non-incident costs such as court reporter expenses (including cost of transcript and court reporter's fee for attendance), court costs (such as filing fees, service of process, newspaper publication costs, subpoena costs, witness fees, recording fees, etc.), accounting and appraisal fees, expert fees, trial/hearing exhibit costs, investigation costs, and applicable lobbyist registration fees, will continue to be itemized and billed.

4. Payment of Fees and Costs. Our invoices will be submitted to you on a monthly basis and each invoice will be due and payable when rendered. You must understand that if any invoice remains unpaid for more than 30 days after it is rendered, we reserve the right, in our discretion (subject to court approval, if necessary), to cease to provide further legal services to you. You will, however, be liable to us for the payment of any fees earned and any costs incurred by us to that time, together with any applicable taxes. In the event we are ultimately required to bring suit to collect any unpaid fees and costs, you understand that you will be required to pay reasonable attorneys' fees as well as legal interest on the amount of any fees and costs due us. You further understand that we have the right to retain any and all files, papers and other property coming into our possession in connection with our engagement without any liability to you until we have been paid all costs, fees and interest due us under this agreement. You also agree to the imposition of a charging lien for any monies due us on all real and personal property that is preserved, protected or obtained as a result of the representation undertaken herein. Interest at the rate of 12% per annum will be added to any invoice which remains unpaid for more than 30 days after it is rendered.

5. Withdrawal from Representation. We reserve the right to withdraw from representing you if you have misrepresented or failed to disclose material facts to us, or if we disagree about the course of action which should be pursued.

6. Representation of Other Clients. We are bound by rules of legal ethics not to represent any client if the representation of that client will be directly adverse to the interests of another client unless each such client consents to such representation after consultation. If this letter is addressed to more than one person, your signature of this letter will constitute such

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consent from each of you with respect to the matter or matters specifically described in the paragraph of this letter entitled "Nature of Legal Services."

7. Fees for Other Services. In the event you ask us to render legal services with respect to other matters, in the absence of a written agreement specifically addressing that representation, the other matters will be handled on an hourly basis, and fees and costs will be payable under the same terms and conditions as provided for in paragraph 2 of this letter.

8. Commencement of Representation. If the foregoing is agreeable to you, please acknowledge your understanding and agreement by signing this letter and delivering it to us, together with payment of the retainer and/or cost deposit set forth above, if any.

We appreciate your confidence in our Firm and we assure you that we will make every effort to perform our services in a prompt and efficient manner.

Very truly yours,

WEISS SEROTA HELFMAN
PASTORIZA COLE & BONISKE, P.L.

By: 
Susan L. Trevarthen

AGREED AND ACCEPTED on _____, 2010.

By: _____
Lynn Dannheisser

WEISS SEROTA HELFMAN
PASTORIZA COLE & BONISKE, P.L.