BERGER SINGERMAN
FLORIDA'S BUSINESS LAW FIRM

GOVERNMENT PERMITTING & LICENSING

The attorneys in Berger Singerman's Government Permitting and Licensing Group represent a variety of private and public sector clients throughout Florida in regulatory matters before federal, state, regional and local agencies. The Group's wide range of expertise includes licensing or permitting for an array of projects and activities, such as developments involving wetlands, wastewater and stormwater management, mining, air emissions, coastal development, marina and dock siting, public drinking water systems, consumptive water use permitting, and in the transfer of fuel from one fuel company to another fuel company.

In addition, the Group assists clients in obtaining professional licenses and defending those holding licenses against agency regulatory actions, such as licenses held by contractors, insurance agents, alarm system installers, and alcoholic beverage purveyors. By working closely with government and regulatory agencies, developers and landowners, the Group has helped solve client problems from simple development entitlement issues to assisting in the environmental permitting of lengthy stretches of roads through 20 miles of highly sensitive wetlands in the Everglades and Florida Keys.

Representative Matters

MANUFACTURER OF PRESTRESS AND PRECAST CONCRETE PRODUCTS

Berger Singerman assisted a manufacturer of prestress and precast concrete products with obtaining Disadvantaged Business Enterprises (DBE) certification through the United States Department of Transportation’s Unified Certification Program. The certification provides the client with a preference in bidding on public contracts. The circumstances which gave rise to the client’s eligibility for DBE certification were unusual given that the company had gone through Chapter 11 bankruptcy and had not been qualified for certification prior to bankruptcy. Part of the client’s plan for success in emerging from Chapter 11 was DBE certification. Certification requires that a business be minority or woman-owned and controlled. Through the Chapter 11 proceedings, ownership of the company was transferred to the owner’s spouse in tenants by the entirety. The Chapter 11 Plan required ownership to make a capital contribution to the company, and the capital contribution was funded from an entity owned by the spouse. To obtain certification, Berger Singerman had to re-characterize the nature of the capital contribution as being exclusively from the new owner in exchange for additional ownership interest in CDS. This additional ownership interest caused her to become the majority owner for DBE certification purposes. Through the change in ownership, the new owner named herself as CEO and took control of the day-to-day operations.

MARINER’S COVE APARTMENT ASSOCIATES, LLC.

Berger Singerman represented Mariner’s Cove Apartment Associates, LLC, a large real estate developer specializing in low income housing, who wanted to lift the rent restrictions off of its low income housing project in order to substantially increase rental income. This involved a special, fairly complex process that had rarely been used previously whereby the FHFC can release the restrictions through an elaborate application process. After lengthy negotiations with the State, Berger Singerman was able to reach a settlement whereby the restrictions could be released earlier than expected and in a manner that exceeded the client’s expectations.

MIAMI GARDENS PARK LLC

Berger Singerman represented Miami Gardens Park LLC before the Miami-Dade Community Zoning Appeals Board for Area 5 in successfully obtaining the rezoning of an 8.2-acre vacant property from Industrial to Residential to allow for the construction of 178 garden style apartments. The Board's vote was unanimous, notwithstanding the objections of residents from the adjacent residential community. The community filed an appeal with the County and the matter was set for "de novo" hearing before the County Commission. On the eve of the Commission's hearing, after weeks of discussions with the appellants, a private settlement agreement was finalized and executed allowing for the appeal to be withdrawn.

RITZ PLAZA HOTEL, MIAMI BEACH, FLORIDA

Berger Singerman helped Makar Properties secure city approvals for renovation and expansion of the historic Ritz Plaza Hotel in Miami Beach. The Ritz Plaza is designated as a historic structure and is located in the art deco architecture preservation district in Miami Beach. In order to restore and update the hotel to current building code requirements, Berger Singerman have worked closely with the City of Miami Beach and its Historic Preservation Board staff to secure approvals for renovation of the hotel and resolve conflicts with historic preservation and modern building code requirements. Berger Singerman also secured Historic Preservation Board approval for development of an additional hotel building between the existing hotel and the beach on the site of the pool and cabanas. While the certificate of appropriateness for the proposed addition was approved, litigation by adjacent hotel owners ensued over the Historic Protection Board's approval of the project. Working with the client's architects to redesign the new building, we secured final Historic Protection Board approval of the addition to the hotel. The adjacent hotel owners again appealed the Historic Protection Board certificate of appropriateness for the revised addition. Following extended negotiations with the adjacent owners, the new addition was final as approved by the Historic Protection Board. Construction and renovation of the Ritz Plaza Hotel is presently underway.

WORL'S LIQUID NITROGEN, INC.

Berger Singerman represented Worl's Liquid Nitrogen, Inc., a small, closely-held compressed medical gasses manufacturer, The Florida Department of Health denied Worl's a permit renewal license because of problems identified in an inspection report. Worl's did not timely appeal the denial because they did not receive it. As the result, suppliers stopped providing them with medical gasses, which would have put them out of business in several days unless the denial was set aside, since they had clients who needed to be regularly restocked. Dan was able to get the prior (expired permit) reinstated by filing a petition challenging the denial and arguing that the denial as not properly noticed, and thus the time for challenging the petition remained open. This worked, the old permit was reinstated, the Department and Worl's worked out their compliance issues, and a new permit was then issued, resolving all problems and saving the business.