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Community Development and Development in Communities: Challenges to the Miami-Dade County Historic Preservation Ordinance

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Community Development and Development in Communities:
Challenges to the Miami-Dade County Historic Preservation Ordinance

by

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Abstract

In Miami-Dade County, Florida, historic preservation is most powerful at the county level. The county's historic preservation office has the power of administration over most municipalities within its borders. In 2014, organized resistance against the county office was sparked by an attempt to declare a mid-century modern section of the town of Bay Harbor Islands as an historic district. Opposition to county management of historic preservation affairs in Bay Harbor culminated in an attempted amendment to the county historic preservation ordinance that would allow municipalities to opt out of county supervision. This thesis examines the arguments used by county preservation opponents to either oppose preservation as a whole or to empower municipalities in this political and administrative arena. Preservation opponents used a variety of rhetorical tactics and approaches to accomplish their goals, influenced by their experiences, community standing, and intentions. In both debates, the arguments used by preservation opponents highlighted ideas and interpretations of freedom in preservation discourse. In the historic district case, opponents highlighted their perceptions of an overreaching county authority in order to challenge the authority of the higher governmental body to regulate local affairs. In the debate over the proposed amendment, preservation opponents focused on the benefits of municipalities being in charge of their own designations. This work will add to the understanding of preservation opponents by expanding the understanding of their freedom-based arguments in two related cases that involved private development and county government.

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Chapter One Introduction

In 2014, Miami-Dade County's historic preservation ordinance was put to the test. County Commissioner Sally Heyman proposed an amendment to the existing law that would allow municipalities to opt out of the county's direct supervision of historic preservation. The proposal of this amendment was spurred by a failed attempt of the county's historic preservation office to designate the town of Bay Harbor Islands' concentrated collection of mid-century modern buildings as an historic district. County-administrated historic preservation faced public backlash as a result of this initiative. A rhetorical battle was waged in the newspapers and in the chambers of Bay Harbor Islands' Town Council. The county's historic preservation office retreated, yet the complaints against it trickled upwards to Commissioner Heyman, whose district included the town of Bay Harbor Islands. Commissioner Heyman proposed the amendment and made it her mission to prevent the county from ever attempting to designate an historic resource without municipal approval. Her proposal inspired a fierce debate between supporters and opponents of county preservation administration. Because of the Bay Harbor Town Council meeting and the countywide debates over adopting the amendment, the battle over preservation in Miami-Dade County amplified, with each side offering a plethora of interpretations of the position and importance of historic preservation within an evolving community.

This thesis will examine the arguments employed by opponents of the Miami-Dade County Office of Historic Preservation in an attempt to combat county jurisdiction. While the nuances of historic preservation have been studied extensively, commentary on the opposition is less frequent. This thesis studies the argument and rhetoric adopted in two related cases, the first of which led directly into the second. The first was a debate over whether or not the county's Office of Historic Preservation should declare a segment of Bay Harbor Islands, a municipality within its jurisdiction, an historic district. The second was a debate over a proposed change to the county's historic preservation ordinance which would allow municipalities within Miami-Dade County to opt out of the control of county's historic preservation board. The first was a failure for county historic preservation authorities, and the second was a success, with the proposed change to the ordinance being rejected. In each case, some residents rebelled against county control, and the opponents of historic preservation in both of these cases used a variety of rhetorical strategies to accomplish their goals.

This thesis does not examine the arguments between those for and against preservation; that struggle is merely the backdrop on which opponents of preservation formed and honed their rhetoric. Opponents varied in their use of history, opposition to government practice, and tone. In both cases, however, the arguments used by opponents of Miami-Dade County preservation were couched in a dialogue centered on the ideal of freedom, which they alleged the county preservation body was hampering. This thesis demonstrates how two types of anti-preservation rhetoric were presented and received in Miami-Dade County in 2014. The debate over the proposed historic district was

motivated by a response to the county's historic preservation office's attempt to guide future development in a historic community, and as such was embedded with fear and opposition to government oversight over municipalities. The discussion about the amendment to the historic preservation ordinance was couched in anti-government rhetoric as well, but the arguments were phrased in a proactive rather than reactive way, with opponents of the county's preservation office supporting an amendment that would give municipalities the opportunity for greater autonomy. The opposing forces against preservation in Miami-Dade did not constitute a unified front; rhetoric was formulated by individuals in a way that best suited their wants and experiences, providing a window into greater issues and ideas that drove people to agitate against the protection of historic, potentially significant architecture, or at least the right for county authority over that field.

Debates over historic preservation are often confined to the fate of a single building or architectural feature. However, historic preservation boards have the ability to designate a neighborhood as an historic district. This process involves the limitation of architectural styles, height, and massing of buildings within the district. Historic district designation necessitates the selection of a single coherent identity for an area, as well as administering the usual government oversight that has the possibility to limit the ability for development and new construction to occur, within guidelines managed by the historic preservation office. Historic district designation imposes a single set of rules and regulations over a potentially diverse collection of buildings. While a district is usually bounded as an area with a distinct community identity, the residents and stakeholders will certainly have different views as to whether the proposed district enhances the character

and future viability of the community. While some residents support the idea of historic district designation, interested in maintaining their perceived community character, others are opposed to the administration it entails. The arguments employed in the very public debates over a proposed historic district in Bay Harbor Islands tended to be bombastic and divisive; the different sides exhibited opposite views of what was best for preserving local heritage while ensuring financial and aesthetic success in the future.

The Metropolitan Miami-Dade County Historic Preservation Ordinance, adopted in February of 1981, is the driving force behind government-initiated preservation at the county level. It sets and describes the mission of county preservation authorities, the standards that the Historic Preservation Board and Office of Historic Preservation adhere to, and the limits of their authority. The county does not have universal jurisdiction within its borders. Multiple municipalities have had the opportunity to opt out of county oversight. Miami-Dade County is comprised of many small and large municipalities which coexist under the county government, but share very little connection under a broad umbrella identity. Miami-Dade County is often referred to as Greater Miami. The city of Miami, from which the county draws its name, makes up only 55.27 square miles of land out of the county's 2,431. Despite this, the city of Miami is the seat of the county. Even though the seat of government is a short drive away from all locations within the county, some municipal leaders view county jurisdiction as an outside invasion on community authority. There are 34 cities located within the limits of Miami-Dade County, and each has a different relationship with county authority. In the arena of historic preservation, Miami-Dade's municipalities had the opportunity in 1981 to create their own boards and opt out of the county-wide ordinance. Eight cities opted out. The

remaining 26 were left under the control of the county's historic preservation office, either by choice or by the virtue of being founded after the opt-out opportunity closed.

The Miami-Dade County Historic Preservation Ordinance clearly defines the responsibilities and powers of the county's preservation office. The document's declaration of legislative intent says that "it is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of properties of historical, cultural, archeological, paleontological, aesthetic and architectural merit are in the interests of the health, prosperity and welfare of the people of Miami-Dade County."¹ The authors of the ordinance believed that by maintaining a connection to the history and culture of the past, as well as by using historic buildings in rehabilitative ways that are economically beneficial, a preservation board and administrative office were effective tools for improving the lives of county residents. This agenda is primarily accomplished by identifying and protecting sites and districts "which represent distinctive elements of the County's cultural, social, economic, political, scientific, religious, prehistoric and architectural history."² The county's historic preservation board and office are encouraged to protect the region's diverse collection of historic resources.

County historic preservation is executed through interpretation and designation. The historic preservation office either receives applications from property owners to designate their property as a historic resource or identifies places of significance and presents them to Historic Preservation Board of appointed community members, who decide whether or not the resource will be designated. Before the board makes its

¹ Miami-Dade County, *Miami-Dade County Ordinance 81-13 Chapter 16-A Historic Preservation* <http://www.miamidade.gov/planning/library/forms/HP%20ORDINANCE%2081_13%20CHAPTER%2016A.pdf>

² Miami-Dade County, *Miami-Dade County Ordinance 81-13 Chapter 16-A Historic Preservation*

decision, property owners must be notified, but their approval is not required for designation. Once designated, a site or property cannot be altered without its owners applying for and receiving a certificate of appropriateness from the county. Specifically, a designated resource cannot be “erected, altered, restored, renovated, excavated, moved or demolished” without county approval.³ Protected architectural features requiring a certificate of appropriateness to change include “the architectural style, scale, massing, siting, general design, the color of exterior paint surfaces, and general arrangement of the exterior of the building or structure, including the type, style and color of roofs, windows, doors and appurtenances.”⁴ In Miami-Dade County, there is only one level of protection for historic resources, and it is applied in a uniform way among the county’s municipalities over which the county office holds jurisdiction. The county’s ordinance does not favor any specific architectural styles or eras of construction, with the law’s language being phrased in a way that allows for any resource to be designated and protected.

This process was being followed in the summer of 2014, when the county’s historic preservation office identified an island with a large, mostly intact collection of mid-century modern buildings and sought to designate it as an historic district. Prior to this proposed designation, there were seven historic districts presided over by the county, with periods of significance spanning from 1880 to 1950. The last district had been designated in 2004, so the idea of county district designation was not fresh in public memory. There was also no precedent of the county designating a mid-century modern historic district. With the county attempting to designate its first historic district in ten

³ Miami-Dade County, *Miami-Dade County Ordinance 81-13 Chapter 16-A Historic Preservation*

⁴ Miami-Dade County, *Miami-Dade County Ordinance 81-13 Chapter 16-A Historic Preservation*

years, one comprised of buildings of an architectural style not universally regarded as valuable and historic, the stage was set for a debate over the place of historic preservation in Miami-Dade County, as well as discussion over which historic resources deserve to be protected.

Chapter Two

The Battle for Bay Harbor Islands: Opposing Interpretations of History, Historic Districts, and Historic Preservation

In August 2014, the town of Bay Harbor Islands in Miami-Dade County, Florida, held a town council meeting at which many residents revealed their perceptions of the place of county government in interpreting and protecting sites of municipal history. The county's Office of Historic Preservation was attempting to designate the town's east island as an historic district. Local preservationists had been fighting a decade-long battle to preserve the town's healthy collection of mid-century Miami Modern (MiMo) architecture, which the town's east island, consisting only of multi-family residences and a business district, represented in large numbers. According to a 2015 historic resource survey of the town's east island, out of 264 resources in the proposed district, 138 contributed historically to the proposed designation. At the time of the survey, noncontributing resources included parking lots, vacant lots, and buildings completed after 1965.⁵ While much of the town's initial construction would have fit the MiMo style, the east island's larger buildings had maintained that character much more than the single-family homes on the west island had. The historic buildings on the east island consisted mostly of garden apartments characterized by geometric angles, pre-cast concrete screens, and cantilevered sunshades over windows and doors.

⁵ Miami-Dade County Office of Historic Preservation, *East Island Historic Resource Survey*, April 2015.

Taking place just after the county had initiated the procedure for historic designation, the contentious council meeting at which the proposed district was discussed was heavily attended, and provided the opportunity for opponents and proponents of historic preservation to speak on the matter. The debate was tempered by political and governmental concerns, predominantly an agitated response to the administrative power of the county historic preservation office over municipalities. Opposition to the proposed district was expressed primarily as a reaction to the perceived overreach of county preservation authorities. Even with most preservation opponents responding to the power of county government, their arguments were presented in a variety of ways, with much of the rhetoric relating to the value and attractiveness of MiMo architecture.

While the debate over historic preservation in Bay Harbor Islands did involve and necessitate philosophical arguments over the definition and value of history, opposition to historic designation by the county was also often expressed through sheer clear anti-government sentiment. In Bay Harbor, this type of opposition, which highlighted a decline in freedom and personal choice as a result of the county's historic designation, reflected the particulars of the process that would have led to the creation of an historic district. These arguments were aimed by opponents of preservation at reducing the legitimacy of the historic designation initiators while emphasizing the perceived loss of autonomy that would accompany the designation. They were framed in such a way that denigrated and attacked the agencies that were seen as being responsible for the proposed historic designation. Opponents of historic preservation who used this style of argument were not merely opposed to historic preservation of a specific district in a specific

scenario. They sought to entirely dismantle the ability of the county's preservation body to function and expand its influence.

The public debate in Bay Harbor Islands was a perfect storm of publicity and controversy. Since the late 1990s, mid-century buildings were increasingly being demolished for new development and awareness of the Miami Modern architectural style had become more common. In 1998, planner Randall Robinson and interior designer Teri D'Amico coined the term Miami Modern, to describe the Modern architecture constructed in Miami between 1945 and 1972. According to an article in *Preservation Today*, a magazine published by the Dade Heritage Trust, a local preservation organization, the duo of Robinson and D'Amico had learned from experience "that mounting a successful preservation effort meant eliciting in the public the very same passion that spurred the protection of Art Deco structures years before."⁶ D'Amico was a longtime Bay Harbor Islands resident, and living in a community with an intact MiMo heritage had inspired her advocacy. Paul Goldberger wrote that Art Deco architecture "was disdained by serious scholars, not to say preservationists, until the 1970s, largely on the grounds that it was somewhat vulgar and commercial and did not have the ambitions of serious architecture. Now we no longer fight about that. We no longer doubt the value of those buildings as a part of our cultural patrimony."⁷ Robinson and D'Amico aimed to achieve a similar result for the MiMo style they identified. The Miami Modern movement was as much about branding as preservation; Art Deco buildings had inspired the

⁶ Nina Korman & Teri D'Amico, "Past, Present and Future," *Preservation Today*, 2011, 20.

⁷ Paul Goldberger, "The Modernist Manifesto," *Preservation*, May/June 2008, <<http://www.preservationnation.org/magazine/2008/may-june/modernist-manifesto.html>>.

picturesque views of Miami Beach envisioned by people worldwide, and Miami Modern buildings had the same potential.

The proposed Bay Harbor Islands historic district was not the first of its kind in the county, merely the first proposed by the county's Office of Historic Preservation. In the early 2000s, the city of Miami Beach created multiple Miami Modern historic districts at the local level. The Collins Waterfront Historic District, created in 2000, and the North Beach Resort Historic District, created in 2004, were characterized by their hotels and apartment buildings. In 2006, the City of Miami created the MiMo/Biscayne Boulevard Historic District, which housed the largest collection of MiMo motels in the county. In 2008 and 2009, two National Register historic districts were designated in the Miami Beach communities of Normandy Isles and North Shore. All of these historic districts were notable for their collections of large buildings: hotels, motels, and apartment buildings.⁸ In 2010, the county's Office of Historic Preservation attempted to designate two condominiums, the Bay Harbor Continental and Bay Harbor Club, as historic resources for preservation. Met with extreme public reaction to the designations by property owners and town government officials, the county office retreated, and did not attempt to designate anything in Bay Harbor Islands for four years.

In 2014, the county office began a new initiative, seeking to designate Bay Harbor's East Island as a MiMo historic district in the vein of the previous districts at the local and national levels. In response to waves of new construction threatening Miami Modern buildings, the town's east island was declared by the National Trust for Historic Preservation in the summer of 2014 as being one of the eleven most endangered historic

⁸ Nina Korman & Teri D'Amico, "Past, Present and Future," *Preservation Today*, 2011, 20-21.

places in the country. The organization described Bay Harbor Islands as “one of the largest concentrated collections of mid-century Miami Modern (MiMo) style architecture in the country,” portraying it as being “threatened with redevelopment as large-scale construction moves throughout the area.”⁹ The depiction of Bay Harbor Islands as featuring an endangered cultural heritage was a very threatening concept to interested parties in the town’s spheres of politics and development.

The National Trust’s feature led to a front-page story in the *Miami Herald*, emphasizing the threats further development posed to the historic architecture. Miami-Dade County’s Historic Preservation Chief, Kathleen Kauffman, was interviewed for the article, and commented on the National Trust’s designation of the district as an endangered space. She said that inclusion on the list “should be a huge wake-up call to the residents... At this point, it’s the residents who will have to be the front line of defense.”¹⁰ The high-profile nature of the public debate over Bay Harbor Islands raised the stakes on both sides of the argument and made the proposed historic district seem like a reactive measure encouraged by agencies outside of the county. The results would inform the future of development within the town and the ability of the county preservation office to preside over municipalities.

Some preservation opponents presented their arguments in a way that cast doubt on the county preservation office’s ability to interpret historic places in municipalities correctly. Councilwoman Solange Rousselot, who had lived in Bay Harbor Islands for

⁹ National Trust for Historic Preservation, *Bay Harbor’s East Island* <<http://www.preservationnation.org/issues/11-most-endangered/locations/bay-harbors-east-island.html>>

¹⁰ Andres Viglucci. "Bay Harbor Islands' MiMo Architecture in 'danger,' Preservationists Say." *The Miami Herald*, July 12, 2014. <<http://www.miamiherald.com/news/local/community/miami-dade/article1975361.html>>

twelve years, was firmly opposed to the idea of protecting the mid-century buildings, not agreeing with the county preservation office's assertion that they held historical value. Rousselot, who was born and raised in Argentina, coming to own and operate multiple restaurants in Miami, said that the buildings under debate "are older buildings that are not even well-maintained, and we call them historic buildings. A historic building, I don't think should be measured in decades. I think a historic building should be measured in centuries."¹¹ Rousselot presented herself as someone who appreciated history, but denied that the term could be applied to the mid-century buildings in Bay Harbor Islands. She stated that "they are just older buildings that are not well-maintained. It would be very irresponsible for us to designate historic because they will not last 50 more years, if they are not well-maintained in 2014."¹² To Rousselot, preservation of the contentious buildings would not just be a misguided effort, but also a waste of time and energy. Rousselot portrayed herself through her words as someone who respected history, but thought that the term *history* was inappropriate in the Bay Harbor Islands context, due to the age and appearance of the town's buildings. According to her statements, she may have even been in favor of historic preservation, but saw the application of the term *historic* to the buildings in Bay Harbor Islands as perhaps an insult to the idea of history. This sentiment was commonly held among opponents of the historic district; to them, historic resources were worth preserving, but since mid-century buildings were not historic, there was no need to preserve them.

¹¹ Bay Harbor Islands, *Bay Harbor Islands August 11, 2014 Council Meeting*.
<<http://bayharborislandsfl.suiteonemedia.com/Web/Player.aspx?id=59&key=-1&mod=-1&mk=-1&nov=0>>

¹² Bay Harbor Islands, *Bay Harbor Islands August 11, 2014 Council Meeting*.

In public discourse, the word *historic* connotes special meaning and significance, whether it is for events that happened or for architectural value. Historic resources that were constructed in living memory are often not imbued with that extra importance. Preservationist Roberta Lane wrote that “many people perceive places built during living memory, or just before, differently than they do older resources, and too often value them less. This greater appreciation of older resources can be like the special care one has for a fragile heirloom, protected with pride as a rare survivor from a long-ago age.”¹³

Rousselot’s conception of history was a common one; throughout the debates over the proposed historic district, preservation opponents were unlikely to concede the intrinsic historic worth of the MiMo buildings in Bay Harbor Islands. Lane alleges that mid-century modern resources are “often misunderstood and dismissed. To many people they represent the past that we only just shed, a past near enough to feel mundane, exhausted, or challenging, and too familiar to have earned a place on our timeline of history.”¹⁴ If a mid-century building was to stand for fifty more years, it had the opportunity to gain that special cachet that some older buildings have, but Miami-Dade County preservationists, who had to work in the present, could not wait for that to happen. If the public would not accept mid-century modern architecture as historic, they would not accept limitations on properties that they felt did not need saving.

Many opponents of preservation in Bay Harbor Islands used the opportunity for public discussion to directly combat county or city jurisdiction. Opponents of

¹³ Roberta Lane, “Pride and Prejudice: Preserving Midcentury Modern Heritage,” *Preservation Leadership Forum Blog*, January 28, 2014, <http://blog.preservationleadershipforum.org/2014/01/28/preservation-midcentury/#.VXHhAs_BzGd>.

¹⁴ Roberta Lane, “Pride and Prejudice: Preserving Midcentury Modern Heritage,” *Preservation Leadership Forum Blog*, January 28, 2014.

preservation phrased their arguments in a way that combated the higher historic preservation body and the overall historic designation process. Responding to an action of county government that they felt threatened by, these anti-preservation activists in Bay Harbor Islands showed themselves to be opposed to a political system that they felt did not best serve their wants and needs. In the case of Bay Harbor Islands, municipalities within Miami-Dade County are automatically under the authority of the county Historic Preservation Board, unless they had opted out and established their own historic preservation body within a year of when the preservation ordinance was passed in 1981.¹⁵ Bay Harbor Islands did not take this opportunity and thus was subject to county control on historic preservation matters. The missed opportunity for independence appealed to some opponents of the county-defined historic district, and their opposition to designation was couched in a critique of the political and governmental process, as well as the particulars of county administration.

Because historic preservation is administered through law, opposition to it in Bay Harbor Islands was often phrased in a way that questioned the fairness and appropriateness of the regulations. In Bay Harbor, opponents who took the anti-government approach presented the county's Office of Historic Preservation as an invading force. Vice-Mayor Jordan Leonard said at the August 11, 2014 council meeting that "there are a lot of property owners that are very afraid of this designation."¹⁶ Referring to the county ordinance, he said that "some people can say that it's draconian, some people can say that it's big government taking over your rights, but whatever you

¹⁵ Miami-Dade County, *Miami-Dade County Ordinance 81-13 Chapter 16-A Historic Preservation*.

¹⁶ Bay Harbor Islands, *Bay Harbor Islands August 11, 2014 Council Meeting*.

call it, the fact of the matter is that property owners do not have a say.”¹⁷ Leonard’s staunch opposition to county authority was phrased and presented very calmly. While his words pointed toward a perceived encroachment upon the individual freedom and liberty of Bay Harbor Islands residents, he delivered them in a very flat and measured tone. He continued to elucidate his opposition to county preservation, saying that “the problem I have is that if you are a property owner and the county wants to come in and designate your property, and you’re against it, you have no say. They can do it without your permission, and that’s it...I don’t think that’s what this country is all about.”¹⁸ Leonard used the rhetorical strategy of highlighting certain values presented as fundamentally American in nature to resist what he perceived as an invasion by the county. He portrayed the historic district designation as an incursion worsened the lives and opportunities of town residents. Leonard implicitly said that the influence of the county was something that should be repelled. While the words used in Leonard’s rhetoric became more heated, his tone of delivery did not change. He did not display anger or sadness, even as he cited the county office as one that opposes the best interests of the town and the spirit of American freedom and independence.

Preservation opponents who stated their arguments through an anti-government lens tended to phrase their public addresses in a way that presented the county’s preservation office as a clear enemy for their audience to face. Bay Harbor Islands Vice-Mayor Jordan Leonard portrayed county government as the enemy. After opening his speech by calling the county preservation ordinance unfair and extreme, he said that “I don’t disagree with the fact that there are some properties that can increase in value, I

¹⁷ Bay Harbor Islands, *Bay Harbor Islands August 11, 2014 Council Meeting*.

¹⁸ Bay Harbor Islands, *Bay Harbor Islands August 11, 2014 Council Meeting*.

don't disagree with that, but the problem I have is that property owners, if you want to educate them, that's fine, but forcing them to the point where they're scared, or in some cases, I've had residents even cry, that's not right... This is our town."¹⁹ Leonard's remarks evolved from a commentary on the place of municipalities in the county governmental system to a community-based rallying cry. Up until this point of the speech, Leonard had presented the county's preservation ordinance as a restrictive, oppressive force, one that makes the lives of Bay Harbor Islands residents and property owners more difficult without adding much value. In the beginning of Leonard's statement, he expressed his wish for Bay Harbor Islands to establish its own historic preservation board. Attacking the foundations of county jurisdiction in the town was his way of pushing forward that particular agenda.

While some preservation opponents took a political approach to countering the proposed historic district, others took an emotional one, offering charged words that denigrated the fairness and representativeness of county preservation authorities. At the town council meeting, Bay Harbor Islands resident Jeffrey Koster took castigated preservationists and preservation in general in an attempt to counter the county's initiative. He said that preservationists have tried "to change the image of our town to fit their aesthetics."²⁰ In an effort to comically disregard the preservationists' view, he asked "why not freeze the entire town and make it a museum?"²¹ Koster, after detailing how preservation would make life more difficult for town residents by making their properties harder to sell due to the additional restrictions on new construction and alteration of

¹⁹ Bay Harbor Islands, *Bay Harbor Islands August 11, 2014 Council Meeting*.

²⁰ Bay Harbor Islands, *Bay Harbor Islands August 11, 2014 Council Meeting*.

²¹ Bay Harbor Islands, *Bay Harbor Islands August 11, 2014 Council Meeting*.

existing buildings, insisted that “the preservationists don’t want buildings destroyed, but they don’t care about the lives they are destroying.”²² Koster questioned the value of community among preservationists, painting them as disregarding human struggle. He sought to delegitimize and call into question preservationists' methods and motivations. By presenting preservationists at the county level as unwilling to think realistically about buildings, he was fundamentally demonstrating that county authorities did not have the town’s best interests at heart, and should not have the power to designate its resources.

With the proposed historic district being the county’s second attempt at designating historic resources in Bay Harbor Islands, some anti-preservation speakers used the previous failure and the four years with a lack of county preservation action as a call to arms, indicating that the freedom that had been achieved in those four years should be upheld. Koster said that “in 2010, we had a fight to stop our building from becoming landmarked. Miami-Dade preservation officials said, and I quote this from the newspaper, they halted an effort in 2010 to designate two buildings as historic because of opposition from the town council and the residents. Words and actions have consequence. Words and actions have consequence. With the council’s support and Miami-Dade officials withdrawing their effort to designate our building in 2010, we felt free and unencumbered.”²³ Koster repeated himself to drive in the weight of his words. He attempted to ensure council support for his anti-preservation views, citing a past occurrence of municipal victory. In the face of a new perceived attack on his building, Koster said that “I would hope that the town council would take the same actions and positions they did there in defending our property... A reversal in the council’s position

²² Bay Harbor Islands, *Bay Harbor Islands August 11, 2014 Council Meeting*.

²³ Bay Harbor Islands, *Bay Harbor Islands August 11, 2014 Council Meeting*.

will cause significant financial hardship for all parties, and if the preservationists reverse their decision, that shows to me that they lack a lot of credibility.”²⁴ Koster applied pressure to the council, politically-elected officials, by associating historic preservation with community decline.

Some preservation opponents in Bay Harbor Islands tried to paint the county preservation office as being caught in the fashionable ideas of the present. The Miami Modern architectural style was a relatively new preservation trend, and it had not received universal public cachet and renown. Koster attempted to delegitimize the worth of MiMo’s historic nature. He presented history and style as a cycle, saying that what was once new is now old, that what is now new will one day be old. Koster, commenting on the MiMo character of Bay Harbor Islands, said that, despite the style once being popular and prevalent, it “passed out of favor. There is no reason to perpetuate an obsolete style of architecture in our new construction. The new modern that is being built today, fifty years from now, will be the same as the MiMo is now.”²⁵ Much like council member Solange Rousselot did, Koster doubted the attractiveness and relevancy of MiMo buildings to the present. By pairing the old and new buildings that stood in strict opposition to each other in preservation law and popular discourse, he accomplished two rhetorical goals. By connecting the MiMo buildings to present ones, Koster attempted to lessen the uniqueness of the older buildings. He took away their character by saying that new construction is their modern equivalent. By connecting new construction to the MiMo buildings, he combated the charge that new buildings are disrupting the town’s special atmosphere. Treating history and style subjectively, removing the allure of past

²⁴ Bay Harbor Islands, *Bay Harbor Islands August 11, 2014 Council Meeting*.

²⁵ Bay Harbor Islands, *Bay Harbor Islands August 11, 2014 Council Meeting*.

construction while presenting the potential for new buildings, can yield great results for a preservation opponent.

While the most bombastic debates over historic preservation tended to focus on the role of government and the potential loss of freedom and property rights, some anti-preservation advocates used interpretations of history as a powerful weapon against designation. At the August 11, 2014 Bay Harbor Islands town council meeting, local architect Marcus Frankel spoke out against historic district designation, citing an informal survey he had done of the properties on the east island. He phrased his argument as something that needed to be discussed before preservation or districts are entertained, saying that “I think what we really need to do is to examine the town’s urban and suburban conditions and the inventory, the existing inventory of the diverse styles that exist in Bay Harbor. It is really an eclectic mix, the styles, of contemporary, modern, international styles, Bauhaus, Deco, Mediterranean, post-modern, and MiMo styles. It is a historic blend of all these styles.”²⁶ Frankel implicitly argued that new construction is historic preservation in this case, with diversity and change being fundamental to the identity of Bay Harbor Islands. Frankel’s argument got right to the heart of the differing definitions of history at stake in this debate. Frankel implied that the county’s interpretation of history, if imposed on the town of Bay Harbor Islands, would not be correct or beneficial.

Preservation opponents in Bay Harbor Islands attempted to present the county preservation authorities as out of touch with the realities on the ground in the municipality. While county preservation officials contended that the island was made up

²⁶ Bay Harbor Islands, *Bay Harbor Islands August 11, 2014 Council Meeting*.

largely of MiMo buildings from the 1940s through 1960s, with the town having the most cohesive collection of that particular style in the state, Frankel indicated that Bay Harbor's true asset was architectural diversity. By presenting diversity as a positive, and claiming that the county did not properly appreciate it, Frankel fundamentally challenged the qualifications of the county's preservation office. He took the arguments of the county preservation office and turned them to support his point, saying that "the good news is that Bay Harbor's east island is extremely unique, as some of the people have already said. It's charming, it's unique, but it's incredibly diverse."²⁷ His tone was slightly dismissive. He turned to a further discussion of local history, saying that the collection of buildings he perceives as diverse "were all built as a function of time and in the decade that they were designed, and that the developers, development occurred by investors, developers, and entrepreneurs, starting in the late 40s and up until the present, as well as into the future as the current activity exhibits."²⁸ Frankel, whose firm Frankel Benayoun was the designer for sixteen proposed development projects in the town at the time of this meeting, asserted that a continuous flow of new buildings was essential to the town's identity in its history, and that it should continue to be so.²⁹ He used his authority as an expert on the subject under discussion to lend credence to his words. Frankel attempted to seize the historical narrative, presenting the past in a way that suits his wants and needs as an architect with an investment in the town's development. While Frankel's arguments in front of the Bay Harbor Islands town council seemed well-argued and based in his experiences as an architect, these characteristics are not necessary for an

²⁷ Bay Harbor Islands, *Bay Harbor Islands August 11, 2014 Council Meeting*.

²⁸ Bay Harbor Islands, *Bay Harbor Islands August 11, 2014 Council Meeting*.

²⁹ Bay Harbor Islands, *New Construction Projects – DRC Review*, in author's possession

historically-based argument. History is a malleable thing; even in debates over historic preservation, both sides can claim to be on the side of history.

Some preservation opponents in Bay Harbor Islands employed conflicting perceptions of the value of historic architecture to illustrate their views that it was flawed and not worthy of saving. These opponents tried to portray the county preservation office as being out of touch, preserving buildings that should not be preserved. A July 16, 2014 *Miami Herald* Letter to the Editor illustrated this fact. The letter was written by Norma and Michael Orovitz, who claimed to have lived in Bay Harbor Islands for 50 years. They wrote that “we are intimately and exquisitely attentive to the terrific small-town and neighborhood feel on both the east and west islands.”³⁰ The west island, by design, is made up of single-family residences, generally very expensive, and the Orovitzes noticed some significant distinctions between the two sections of town. They wrote that the difference “is determined by the differing attitudes of private homeowners and building landlords. Ride the residential streets with single-family homes, and you’ll see well-maintained upscale properties and landscaping, speaking to the residents’ pride.”³¹ The Orovitzes drew a distinction between the upscale west island and the proposed east island historic district, where there “are many older, decrepit garden apartment buildings, some downright seedy.”³² They question the necessity of the county’s preserving buildings that could be replaced by ones that were newer and perhaps more attractive.

Attacks on the attractiveness of mid-century modern buildings were common in discussions about preservation in Bay Harbor Islands. Preservationist Paul Goldberger, in

³⁰ Norma and Michael Orovitz, “Old isn’t better.” *The Miami Herald*, July 16, 2014. <<http://www.miamiherald.com/opinion/letters-to-the-editor/article1975832.html>>

³¹ Norma and Michael Orovitz, “Old isn’t better.”

³² Norma and Michael Orovitz, “Old isn’t better.”

an article in *Preservation* magazine, connected this common opinion to the belief that modernism was about functionalism over beauty. He wrote that this argument boils down to the statement that “if modernism was functionalism, as is often asserted, and if functionality is hardly the highest and noblest virtue, then modern buildings—which tend to be simple and stripped down and basic—are not worth preserving.”³³ The Orovitzes certainly would have agreed with this idea. The west island had lost the sense of architectural cohesion that the east island had maintained. According to a 2006 historical structure survey prepared for the town of Bay Harbor Islands, while the east island was predominantly made up of Miami Modern architecture, the west island had less architectural cohesion. Though most of the homes on the west island were classified in the report as masonry vernacular, they drew elements from many architectural styles, including Art Deco, Streamline Moderne, Mediterranean Revival, and Miami Modern.³⁴ The Orovitzes saw the surviving mid-century modern architecture on Bay Harbor’s east island as being beyond saving. To them, new construction would be a boon to the community. In their view, the county was demonstrating a lack of understanding of what was right for Bay Harbor Islands.

Anti-preservation advocates in Bay Harbor Islands sometimes injected historic figures into their speech for an instant dash of legitimacy and weight to their words. The Orovitzes did this in their letter to the editor, writing that “MiMo or not, old doesn’t always mean better when property values fall. The late visionary Shepard Broad would be appalled, and so would Morris Lapidus.”³⁵ In this letter to the editor, the Orovitzes

³³ Paul Goldberger, “The Modernist Manifesto,” *Preservation*, May/June 2008.

³⁴ Gai Consultants, Inc., *Final Report: Historical Structure Survey, Town of Bay Harbor Islands, Miami-Dade County, Florida*, September 28, 2006.

³⁵ Norma and Michael Orovitz, “Old isn’t better.”

cited two extremely-relevant figures to the debate at hand. Shepard Broad was the founder of Bay Harbor Islands, a man who literally dredged the titular islands out of the ocean. He served as mayor of the town for twenty-six years, and was in charge during the time when the buildings under debate were constructed. Morris Lapidus was perhaps the most notable of the Miami Modern architects. When the Orivitzes claimed that these men would not side with the preservationists, they were saying that the people who had a hand in the architectural character of the Bay Harbor Islands community would not support it. By using the example of prominent historical figures to support their point, anti-preservation activists attempted to use the weight of history against historic preservation. The Orivitzes did not cite any particular examples that would justify their point, but they added a degree of significance to their words by evoking the spirits of MiMo-era luminaries.

The debate in Bay Harbor Islands ended in failure for historic preservation authorities. The county historic preservation office backed off from the historic district plans, instead deciding to pursue individual protection for significant MiMo buildings. This method had proven difficult in previous years, and the residents who spoke out at public meetings had used their arguments against preservation before, and would have the opportunity to use them again. Preservation opponents in Bay Harbor Islands were successful in creating a hostile enough environment to cause the county to retract its attempt for jurisdiction. The opponents of county preservation had been successful. By focusing their arguments in a way that implied a lack of freedom being the result of county preservation action, they managed to draw great public interest to the issue, making it difficult and costly to pursue historic district designation. The rhetorical tactics

used by preservation opponents were varied, based on the personalities, careers, and personal narratives of the speakers and writers. Within this debate, there were two clear rhetorical angles of attack. The first was questioning the value and relevancy of mid-century modern architecture of the MiMo style to the present. Opponents of preservation in Bay Harbor questioned both the aesthetic and historic worth of buildings they deemed to be outmoded and unattractive. The arguments they used were fairly standard, exhibited throughout the country whenever cases of mid-century modern preservation arose. The other rhetorical strategy questioned the county's right to administrate historic preservation in municipalities, and challenged the methods that had been used to propose the Bay Harbor Islands district. This discussion would continue at the county level, as many of the same figures who argued against preservation in Bay Harbor spoke before the county commission, asking for the right to opt out of county control.



Figure 2.1: 2006 Survey Map of Bay Harbor Islands Identifying MiMo and MiMo-Related Resources. Prepared by Gai Consultants.



Figure 2.1: A mid-century modern apartment building at 1025 93rd Street. Photographed by author.



Figure 2.2: Bay Harbor Continental condominium at 1135 103rd Street. In 2010, the Miami-Dade County Office of Historic Preservation attempted to designate this building as an individual resource. Photographed by author.

Chapter Three

Transparency and Opportunity for Communities: The Debate over Municipal Rights in the Miami-Dade County Historic Preservation Ordinance

The debate over historic preservation in Bay Harbor Islands did not end when the Miami-Dade County Office of Historic Preservation withdrew its initiative to create an historic district in the municipality. On the contrary, it reached a higher level of discussion and debate. The county commissioner whose district included the town attempted to change the county's historic preservation ordinance in order to ensure that the county office could never attempt a similar initiative again. Commissioner Sally Heyman, whose District 4 served as the northeast corner of the county, including many oceanfront communities, crusaded against county control over municipalities. She introduced a proposed amendment to the historic preservation ordinance. This amendment, if enacted, would have allowed municipalities within Miami-Dade County to opt out of the ordinance. With county preservation authorities providing no immediate threat to development in communities like Bay Harbor Islands, the language used was proactive rather than reactive. Whereas the rhetoric of the Bay Harbor Islands debate was intended to repel the county's preservation board and office immediately, the amendment's intention was to create a new status quo where the county would have much less power. Heyman, a South Florida native who had been in office since 2002, went on the offensive against Miami-Dade County preservation authorities, portraying

them as an unrepresentative body holding back progress and keeping derelict buildings standing for emotional reasons. The amendment, which served as a clear attempt to limit the authority held by the county government over the diverse collection of municipalities within its borders, was worded in a way that aimed to show how the original historic preservation ordinance was flawed. Heyman attempted to improve the ordinance's representativeness through her vision, giving greater control and accountability to the small communities in the county. The original text of the county's historic preservation ordinance had allowed municipalities to opt out, but within a limited time frame. Heyman's amendment includes a clause that says that "the County's Historic Preservation Ordinance currently prohibits any municipality incorporated on or before July 1, 1982 from opting out of the County's historic preservation jurisdiction, because the Code only allowed such an opt out to occur within a short period of time during the early 1980s."³⁶ Of the 35 municipalities included within Miami-Dade County, 9 were founded after 1982. This clause of the amendment raised a specter of inequality within the discourse about county preservation. A quarter of the communities in the county did not ever have the opportunity to opt out, and Heyman attempted to correct this perceived imbalance.

In terms of phrasing, the amendment was not anti-preservation; it is simply pro-municipality. It included a clause saying that "this Board no longer wishes to limit the timeframe in which municipalities may enact their own historic preservation ordinances, so that municipalities will have greater opportunity to control matters of historic

³⁶ Sally Heyman *Ordinance Relating to Historic Preservation; Amending Sections 16A-3 and 16A-3.1 of the Code of Miami-Dade County, Florida*,
<<http://www.miamidade.gov/govaction/matter.asp?matter=142033&file=true&yearFolder=Y2014>>

preservation within their respective jurisdictions.”³⁷ The decades-old requirements for communities to opt out of the county ordinance were maintained and unchanged. Communities who chose to do so were required to create their own ordinances that stuck to the minimum requirements laid out by county law. In Heyman’s statements on preservation over the months of debate, this would be her primary angle of attack. She did not position herself as being against historic preservation, but rather in favor of the rights of communities to manage their own cultural affairs, because of their own expertise, interest, and investment in the field. Where the anti-preservation side of the debate in Bay Harbor Islands had focused on freedom *from* county authority, the amendment’s language and that used by its supporters highlighted its ability to provide freedom *to* municipalities to manage their own affairs. Heyman’s proposed amendment was a direct reaction to the county’s initiative in attempting to designate Bay Harbor’s east island, but the debate over the amendment at the county level was not only about that issue. Attempts at preservation in Bay Harbor Islands were merely a case study for a larger discussion of the appropriate role of historic preservation in the county.

Commissioner Heyman, before her amendment was first introduced to the Board of County Commissioners, explained her motivations and intentions to the press. In an interview with the *Miami New Times*, a free alternative weekly newspaper, Heyman complained about the way that the county preservation office ignored the wants and needs of municipalities. Heyman said that “there were some serious breakdowns where you had local governments not included until after the fact... All of a sudden, the county

³⁷ Sally Heyman *Ordinance Relating to Historic Preservation; Amending Sections 16A-3 and 16A-3.1 of the Code of Miami-Dade County, Florida.*

stepped in and put the brakes on things.”³⁸ She emphasized the county’s ability to check development and the loss of historic buildings, and painted it as oppression with a lack of accountability. Heyman highlighted a perceived power imbalance between levels of local government, with municipalities being at the whim of the county. In the same article, she presented a clear political position, comparing preservation to other areas where municipalities have more direct power. She said that “if it's local government for everything else, then you know what? Local government should have a say when it comes to historical preservation... This is just how government should work.”³⁹ Heyman stated how she believed county government should work, and using her position and authority as a county commissioner, attempted to put her thoughts into action. She eschewed the thirty years of county preservation history to offer a new system that would be more in line with her interpretations of other branches of municipal administration.

Commissioner Heyman’s amendment was discussed and debated at two public meetings of the Miami-Dade Board of County Commissioners. At the first meeting, held on October 7, 2014, the county commission was tasked with deciding whether or not the item would be presented to the Cultural Affairs and Recreation Committee, where it would be once again judged to be sent to the full commission for a final vote. Three county residents spoke in favor of the amendment at this meeting. Of the three preservation opponents, two were affiliated with the town of Bay Harbor Islands. In comparison to the Bay Harbor Islands Town Council meeting, the rhetoric was much

³⁸ Michael E. Miller. "Preservationists Cry Foul as County Commission Considers Allowing Cities More Autonomy." *Miami New Times*, October 7, 2014. <<http://www.miaminewtimes.com/news/preservationists-cry-foul-as-county-commission-considers-allowing-cities-more-autonomy-6558649>>

³⁹ Michael E. Miller. "Preservationists Cry Foul as County Commission Considers Allowing Cities More Autonomy."

calmer and cooler, with county preservation authorities not being presented as an invading force. On the contrary, the arguments used by preservation opponents were centered on municipal rights and identity, rather than oppression or unfairness. They were more about whether preservation was beneficial to small communities than whether or not it was valid and appropriate.

Some opponents of county preservation continued the practice of using respect for history as a rhetorical weapon against preservationists. Sheila Duffy-Lehrman, an advertising executive and Miami Beach resident, presented her preservation bona fides by saying that “my husband’s grandfather, Rabbi Lehrman, founded Temple Emmanuel, which is a crown jewel of historic significance on Miami Beach, and we appreciate the significance, and we appreciate the significance of use valuation and historic preservation.”⁴⁰ She also pointed out that she lived in 1920s home, and was extremely committed to its preservation and maintenance. Duffy-Lehrman used her support of preservation in general to speak out against the ability of the county to truly protect the diverse collection of properties and landscapes that exist throughout its borders. She addressed her final words to those who “assume municipalities are incapable of protecting unique and discrete needs of their own communities and... argue the county is a better steward of design and historic preservation, better than a city.”⁴¹ She sought to counter those who believe that municipal authority would lead to more invasive development in Miami-Dade County communities. She asked those assembled in the commission chambers to “look no further than the city of Sunny Isles, under county

⁴⁰ Miami-Dade County, *October 7, 2014 Board of County Commissioners Regular Meeting*, <http://miamidade.granicus.com/MediaPlayer.php?view_id=3&clip_id=3187>

⁴¹ Miami-Dade County, *October 7, 2014 Board of County Commissioners Regular Meeting*

jurisdiction, that eliminated every single hotel and structure on Collins Avenue, regardless of its historic value. And I challenge you to honestly consider countless other examples that exist.”⁴² Duffy-Lehrman took a pro-preservation stance to counter county authority. She cited a prominent example of county preservation failure, and asserted that the municipality, invested more directly in its own cultural and aesthetic interests, would have prevented it.

The widespread debate over county administration in historic preservation was inspired by the proposed district in Bay Harbor Islands, and civic leaders from that community emerged to voice their dissatisfaction and try to prevent it from happening again. Town officials from Bay Harbor Islands took the opportunity to not only address to a county audience the needs of their town, but also all municipalities within the county. Vice-Mayor Jordan Leonard, who had spoken at the August Town Council meeting about the possibility of opting out of the county, ordinance, as well as Special Counsel Stanley Price, favored the ordinance for reasons of freedom, representativeness, and equality. Leonard opened by comparing the position of Bay Harbor Islands to the towns that had the opportunity to opt out in the 1980s. He said that “my town, and many other municipalities, may want to have their own board also. The Miami-Dade County League of Cities unanimously passed resolution indicating the same type of concerns that we are stating today, which is that we want to have the right to govern ourselves.”⁴³ Leonard presented himself as speaking for a wide variety of county municipalities, and related the actions of an organization that represents the various communities. Price, on the other hand, cited perceived changes over time as necessitating the proposed amendment. He

⁴² Miami-Dade County, *October 7, 2014 Board of County Commissioners Regular Meeting*

⁴³ Miami-Dade County, *October 7, 2014 Board of County Commissioners Regular Meeting*

said that “when the historic preservation ordinance was created over 30 years ago, it was a different point in time in history... and local governments have now become more and more aware that self-control and self-government is very important in this area.”⁴⁴ To Price, local decision-making was not only right, it is more beneficial to communities. He noted that “Historic preservation has economic consequences, which are best handled by the municipality in which the properties are located.”⁴⁵ While these speeches were not pro-preservation like that given by Duffy-Lehrman, they were much less hostile and defensive than those that had been presented during the debate in Bay Harbor Islands. When Leonard addressed the government that he had previously presented as a hostile invading force, he toned down his rhetoric. Fearmongering and horror at the perceived loss of rights evolved into a positive message of municipal independence and local pride.

The ordinance amendment was accepted to be reviewed at the committee level with a 7-5 vote. Discussion and debate over the proposed amendment came to a head on December 17, 2014, at a meeting of the Cultural Affairs and Recreation Committee. The committee consisted of only four county commissioners, and they were tasked with deciding whether or not the amendment would be voted on by the full commission. Public speakers from both sides of the issue showed on up in force to voice their opinions on the amendment. Both groups were organized and informed. The county preservation supporters handed out matching t-shirts to the various speakers on their side with text reading “Preservation: The County Does it Better.”⁴⁶ As with the previous meeting, Bay Harbor Islands was extremely well-represented. Out of the ten speakers in favor of the

⁴⁴ Miami-Dade County, *October 7, 2014 Board of County Commissioners Regular Meeting*

⁴⁵ Miami-Dade County, *October 7, 2014 Board of County Commissioners Regular Meeting*

⁴⁶ Miami-Dade County, *December 17, 2014 Cultural Affairs and Recreation Committee Meeting*
<http://miamidade.granicus.com/MediaPlayer.php?view_id=4&clip_id=3310>

ordinance amendment, six were affiliated with Bay Harbor, either having lived there or being a part of its government or administration. Compared to the two previous meetings discussed in this thesis, this meeting's anti-preservation speakers were generally of a higher profile, many serving in political or governmental office. In this round of anti-preservation public speech, the watchwords of county preservation opponents were *transparency* and *opportunity*. Advocates for the amendment supported a change that would make county government less opaque and more representative and beneficial for Miami-Dade County's small communities. They asserted that a more representative preservation administration system would be automatically more beneficial, with municipal locals making better and more appropriate decisions.

Commissioner Heyman highlighted the issues that she perceived as making Miami-Dade County preservation unrepresentative and damaging to local economies. She opened the discussion by presenting her reasons for creating the amendment. Citing complaints she had received from her constituents, Heyman said that she delved into what she described as a murky relationship between the county and its municipalities. She was responding directly to the proposed historic district in Bay Harbor Islands, which had not been received favorably by a large part of the Bay Harbor community. Heyman said that, after looking into the issue, she gained "an understanding of the lack of understanding, a lack of communication when it came to a quasi-judicial department board that we can't talk to, that my colleagues here cannot talk to, parallel to zoning."⁴⁷ She portrayed county preservation as a very sinister office, accountable to no one and able to play by its own rules. Heyman, in her speech, claimed to support historic

⁴⁷ Miami-Dade County, *December 17, 2014 Cultural Affairs and Recreation Committee Meeting*

preservation, both from her former office in the state legislature and in the field in Miami. She cited the boards of cities that had opted out in the past as examples of successful historic preservation administration. She painted the problems that historic preservation faced at the county level as stemming from poor communication and poor reception of public wants and needs. She positioned herself as someone who had the best interests of the county at heart, as a person who was well aware of the county's history and the importance of its historic resources. She aimed to portray herself as an elected official who was not opposed to historic preservation, merely practices that flew in the face of municipal autonomy.

Heyman, in introducing her amendment, portrayed it as a bastion for municipal freedom and autonomy. She used her interpretations of county governmental history as a tool in her speech. She took the act of incorporation that all municipalities sign as a statement of their strength and independence, granted by the county, saying that "they got incorporated because they wanted to have additional controls, they wanted to be able to deal directly with their communities, and they feel to some degree disenfranchised if they don't have their own historic preservation board."⁴⁸ Because Miami-Dade County is structured to allow incorporated municipalities to manage their own affairs to an extent, Heyman felt that it is inconsistent for the county to so tightly administer historic preservation. She closed her statement by asserting that her amendment was a pro-preservation item, that it would in fact strengthen preservation. She stated that a one-time opt out was not the original intention of the ordinance's author, and that this amendment, by strengthening communications between levels of government, would make it more

⁴⁸ Miami-Dade County, *December 17, 2014 Cultural Affairs and Recreation Committee Meeting*

effective. Heyman believed that this revision would make Miami-Dade preservation law grow closer to its originally-intended form, and that the new rules would bring the county closer to its historic sensibilities.

Despite Heyman's assertions that the ordinance was about strengthening preservation at the county level, some of the amendment's supporters took an anti-preservation stance in their arguments. Jeffrey Koster, a Bay Harbor Islands resident who had spoken at the August Town Council meeting, saw preservation as the forced maintenance of decrepit buildings. He expressed a belief in the ability for municipalities to govern their own affairs, saying that "I don't think that anybody has better control or understanding of their towns than the Town Councils."⁴⁹ Koster said that his own building, which had been nearly designated in 2010, was damaged by preservation. Though his own building was never designated or landmarked, he said that "There are many things that happen when you have a building landmarked. My building is beginning to disintegrate. Five years ago, we fixed it, and we have to fix it again. It's like an arm with cancer. If you want to live, you have to get rid of it."⁵⁰ Koster was clearly anti-preservation, and used his own experiences living in an historic building to justify his opposition. Koster believes that Bay Harbor Islands being in charge of local preservation would prevent this from continuing. He speaks with experience of the town government's views on preservation, based on the August 2014 debate, as well as the 2010 opposition to designation of mid-century modern buildings.

Some preservation opponents implied that the county-based preservation system existed in spite of American political values of freedom and opportunity. While Koster

⁴⁹ Miami-Dade County, *December 17, 2014 Cultural Affairs and Recreation Committee Meeting*

⁵⁰ Miami-Dade County, *December 17, 2014 Cultural Affairs and Recreation Committee Meeting*

had taken his own life experiences as evidence for his speech, another Bay Harbor Islands resident, Stan Auerbach, built on Koster's claims, adding an additional political and economic dimension. Auerbach complained about the lack of communication between county preservation and property owners, saying that "to eliminate the owners' prerogative of designating his or her property without their input into it, or their decision, I don't think is the American way."⁵¹ He took an economic perspective in his statement against preservation, claiming that it damages the ability of the town to collect funds. Auerbach believed that new buildings will generally produce better income, saying that "if people are concerned with the disintegration of their properties, the fact is that when it's rebuilt, it brings in more revenue, and that revenue goes to better schools, it goes to our police force, it goes to our libraries, our roads."⁵² To Auerbach, preservation damaged the tax base of communities, making it more difficult to grow and improve.

Auerbach's views represented a common attack on county preservation, alleging that the county office's distance from municipalities made it unable to understand the economic impact of its actions. This may have been true, but a publication of the National Park Service Cultural Resource Partnership Notes addressed to historic preservation commissions offers the advice to "not consider economic hardship arguments during the designation process. Economic impact is only speculative until a property owner makes a specific proposal. Further, it clouds the issue of significance, the primary concern for designation."⁵³ In the short term, it may be more difficult to sell land that has a historic resource standing on it or is in a historic district. In the long term, a

⁵¹ Miami-Dade County, *December 17, 2014 Cultural Affairs and Recreation Committee Meeting*

⁵² Miami-Dade County, *December 17, 2014 Cultural Affairs and Recreation Committee Meeting*

⁵³ James K. Reap and Melvin B. Hill, Jr., "Law and the Historic Preservation Commission: What Every Member Needs to Know, *Cultural Resources Partnership Notes*, National Park Service.

property imbued with the weight and value of history is more valuable, if treated with the proper care and respect. A rehabilitated historic resource maintains its aesthetic worth while having a comparable tax base to modern construction.

Seven of the ten preservation opponent speakers represented municipalities, and spoke for their own rights as contributors to the Miami-Dade County culture and economy. They highlighted the two terms, *transparency* and *opportunity*, that formed the basis of support for the proposed amendment. Richard Kuper, executive director of the Miami-Dade County League of Cities, spoke for an organization that connects the county's various incorporated communities. His speech was very neutral on the idea of preservation, but focused instead on the right of municipalities to have the opportunity for self-administration. He said that "the only thing we're asking for is the opportunity for those that want to take on historic preservation and create their own board. And monitor themselves, to give them the opportunity to do so."⁵⁴ Kuper's organization aimed to empower the municipalities, and he presented the amendment truthfully, as something that would do so. Richard Lorber, the assistant Town Manager in North Miami Beach, presented opting out as something that is not necessarily an immediate threat. He said that "We have no plans currently to opt out of the county's historic preservation board policies, but in the future as we grow and develop our staff, we would like the opportunity to have our own historic preservation board. We've seen how effective they can be in other cities."⁵⁵ Lorber aimed to show that supporters of the ordinance were not necessarily fed up with it. In some cases, they just desired the opportunity to remove themselves from it when doing so was beneficial to all parties.

⁵⁴ Miami-Dade County, *December 17, 2014 Cultural Affairs and Recreation Committee Meeting*

⁵⁵ Miami-Dade County, *December 17, 2014 Cultural Affairs and Recreation Committee Meeting*

Most of the town government officials who spoke at the committee meeting cited the county's lack of transparency as necessitating the proposed amendment. Ronald Wasson, Bay Harbor's town manager, said that "Too often or almost always, when a property is being designated, most times the property owner is only alerted after the cart has left the barn, or the horse has left the barn. And now the property owner, they wish to fight it, or are not in favor of it, is left to fight the county and the county commission."⁵⁶ He complained about county process, seeking to justify the opt-out through alarmist language. Vice-Mayor Jordan Leonard, who had demonstrated public support for this amendment for months, used the county's proposed Bay Harbor historic district in his argument. He discussed his unease at the county's "clandestine approach for notifying property owners too far into the process, and, in one case, not at all: Their consideration at one time to designate over half of our town as a historic district without even the input of our community or leaders as to the fiscal implications that come with such an action."⁵⁷ These speakers imply the strengths of the counterexample of municipal preservation; if the cities were in control of their local preservation, they would be automatically transparent. Leonard in particular claimed that a case in which the county followed its proper procedure demonstrated a lack of care or awareness.

While some of the town officials focused on the negatives of the county, others based their arguments on the abilities of municipalities to manage their own preservation affairs. Heidi Shafran, city manager for the Village of Biscayne Park, utilized the example of her city as a successful case study in preservation. She described her community as "one of the historic towns in Miami-Dade County, and home to the only

⁵⁶ Miami-Dade County, *December 17, 2014 Cultural Affairs and Recreation Committee Meeting*

⁵⁷ Miami-Dade County, *December 17, 2014 Cultural Affairs and Recreation Committee Meeting*

functioning log cabin village hall. While the village hall is a designated historic site by the county, it is the village that has taken on the responsibility for the preservation and the restoration we are currently undergoing.”⁵⁸ Shafran, in her speech, attempted to demonstrate a history of success in historic preservation in Biscayne Park. She said that “no one knows Biscayne Park as much as Biscayne Park does, and they... take over their historic preservation future, and continue what they have done for many years without a historic preservation ordinance, and possibly with one in the future, which is to maintain the historic nature of Biscayne Park.”⁵⁹ Shafran indicated that Biscayne Park had taken advantage of its limited historic preservation opportunities, and would be better able to continue if it would be able to opt out.

The supporters of the proposed amendment were in favor of the increased transparency and opportunity it was supposed to entail, but the amendment did not pass. Commissioner Heyman’s amendment died at the Cultural Affairs and Recreation Committee. The four commissioners who voted on the ordinance amendment were not convinced by the arguments used by county preservation opponents. Commissioner Xavier Suarez read sections of a letter from the Florida State Historic Preservation Office stating that Miami-Dade County’s ordinance was “one of the strongest in the state, often used as a model for preservation endeavors by other agencies and local governments.”⁶⁰ Commissioner Jean Monestime agreed, saying that it would be difficult to justify significantly altering an ordinance that was a model for agencies throughout the state. The commissioners were also unconvinced that municipalities would be more effective

⁵⁸ Miami-Dade County, *December 17, 2014 Cultural Affairs and Recreation Committee Meeting*

⁵⁹ Miami-Dade County, *December 17, 2014 Cultural Affairs and Recreation Committee Meeting*

⁶⁰ Miami-Dade County, *Meeting Minutes for the December 17, 2014 Meeting of the Cultural Affairs and Recreation Committee* <<http://www.miamidade.gov/govaction/legistarfiles/Matters/Y2014/142854.pdf>>

preservation administrators than the county. However, the commissioners were open to revising the office practices to better facilitate communication between the county and municipalities. The commissioners advised Heyman to withdraw and alter the item to an amendment that would maintain county authority while fixing the communication issues. Heyman refused, and asked for a deferral of the item to get more feedback. The deferral motion died due to a tie vote of 2-2. As a result, the committee unanimously voted to table the amendment.⁶¹ The county's historic preservation ordinance was left unchanged, but the people who had spoken against it and the historic preservation office had vocalized experiences that the commissioners felt should be addressed.

The rhetoric used by county preservation opponents at the two County Commission meetings is very different from that which had been used at the local level in Bay Harbor Islands. In Bay Harbor, the arguments were against preservation, and at the commission meetings, they were aimed at empowering municipalities to control their own preservation destinies. In Bay Harbor, preservation opponents were striking at something they perceived as an immediate threat. The county was in the process of declaring part of their town an historic district. Staff members of the county were photographing buildings and preparing the documentation for the designation. There was no clear and imminent threat later, when the amendment was proposed. The debate had become less reactive than anticipatory. The sudden nature of the county's attempted historic district designation had demonstrated how quickly a perceived threat could emerge. The types of people who spoke out against county preservation had changed between the two cases. At the local level, most of the speakers were not well-versed in

⁶¹ Miami-Dade County, *Meeting Minutes for the December 17, 2014 Meeting of the Cultural Affairs and Recreation Committee*

government practices. They spoke from their personal opinions and expertise from their careers. At the county debate, most of the speakers against county preservation either were elected officials or government employees. Their motivations and methods are different because of their position and training. While the backlash in Bay Harbor Islands had succeeded in driving away an historic preservation office who wanted to avoid controversy, the arguments used by opponents of county preservation to the county commission failed to convince their target audience. Arguments against the practices of a government office were not enough to override the office's history of success in the eyes of the county commission. While both types of arguments used by preservation opponents centered on freedom, county commissioners did not agree that the hypothetical increase in local authority in preservation was guaranteed to increase the wealth and success of county municipalities.

Chapter Four Conclusion

Over the period of half a year in 2014, opponents of Miami-Dade County's Office of Historic Preservation launched a widespread public debate that played out in government chambers and the media. An endeavor that began as a simple attempt for the county preservation authorities to designate a neighborhood with a coherent architectural and cultural heritage as an historic district led to a general questioning of the office's right to preside over municipalities. The opponents of the county preservation office who participated in the ensuing debate over historic preservation in Bay Harbor Islands and in Miami-Dade County generally had two phases in their approach and rhetoric. The first phase was a defensive reaction to the initiatives of the county preservation office. The second was also defensive, aimed to protect the rights and sovereignty of Miami-Dade County's municipal bodies, but manifested as an attack on the historic preservation ordinance, an attempt to limit its reach.

The tone used by opponents of county preservation was informed by the situation to which they were responding. The Bay Harbor Islands debate was much more polemic and panicked than the one over the proposed amendment. It was partly focused on the perceived overreach by county preservation authorities, but much of the rhetoric questioned the value of mid-century modern architecture. The amendment debate required a higher level of political and legal expertise, and the speakers addressing the county commission created an automatic tone of respect. Even though the amendment

was informed and inspired by the proposed Bay Harbor Islands historic district, the debate did not focus on that case. The discussion was more about politics than architecture. The success of county preservation opponents in the first case and failure in the second was the result of the audience. In Bay Harbor Islands, controversy over the proposed historic district was enough to scare away the preservation office. At the county level, county preservation opponents did not present a case compelling enough to convince the commission that drastic change was necessary.

The arguments used by county preservation opponents varied in methods used. While there was an overall theme of a search for freedom and its attendant benefits in the two debates, within that umbrella there were a variety of methods used. Some took a traditional anti-government or economic approach, stating how they believed the county ordinance or actions of the preservation authorities were regressive or harmful to the growth and development of the county's communities. Most interestingly, many opponents of county preservation used history as a weapon. Historic preservation authorities do not have a monopoly on historic interpretation. Preservation opponents demonstrated various views on what is worthy of being considered historic, how and if historic resources should be protected, and how community character impacted the nature of ideal preservation practices. Many of the arguments centered on local prerogative, with transparency and opportunity being the guiding terms that the amendment supporters followed. In the United States, preservation law is strongest and most effective at the local level. In Miami-Dade County, opponents of county preservation presented their arguments at making their governing body of historic preservation one that was closer to home, and closer to the direct needs and character of their communities.

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