

Lincoln Road landlord seeks \$32M following court victory over Walgreens

LLC tied to Richard Chera seeks to recoup future rent, taxes and other damages

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Richard Chera of Crown Acquisitions, 947 Lincoln Road rendering

A company tied to New York City real estate mogul Richard Chera is looking to collect nearly \$32 million from Walgreens after the pharmacy chain lost a civil lawsuit over a Lincoln Road store that never opened.

On Sept. 22, Miami-Dade Circuit Judge William Thomas granted summary judgment to Chera's 947 Lincoln Road Holdings, effectively rejecting Walgreens' legal claim for breaking a 10-year lease agreement signed in 2015.

Walgreens had planned to open a store inside a redeveloped historic building at 947 Lincoln Road (<https://therealdeal.com/miami/2020/09/24/lawsuit-accuses-michael-comras-robert-cayre-and-harry-adjmi-of-dodging-300k-judgment/>), but Miami Beach officials passed legislation that prohibited retail pharmacy stores before the company applied for permits in 2018.

Chera, principal of Crown Acquisitions and a son of the late Stanley Chera

(<https://therealdeal.com/2020/04/11/stanley-chera-titan-of-nyc-retail-dies-of-covid-19/>), closed on 947 Lincoln Road for \$25.7 million in 2018.

“Timely applying for a building permit was a mandatory condition to terminate the Lease, and it was not timely satisfied,” Thomas wrote in his ruling. “Based on the undisputed record before the court, Walgreens purported termination of the Lease was untimely.”

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Mark Heise

947 Lincoln Road Holdings filed a motion on Sept. 25 seeking accelerated future rent, accelerated real estate taxes, development damages and other expenses totaling \$31.7 million from Walgreens. Mark Heise, co-counsel for 947 Lincoln Road

(<https://therealdeal.com/miami/2015/12/10/chera-wanted-to-buy-947-lincoln-road-before->

comras-and-cayre/) Holdings, said his client is gratified that the judge ruled Walgreens has to honor its lease agreement.

“Walgreens kept saying it was unfair to make them pay rent [\$25 million over 10 years]

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According to the complaint, the landlord was obligated under the lease to obtain entitlements from the Miami Beach Historic Preservation Board that would allow Walgreens to obtain building permits to redevelop the building. The board approved the entitlements (<https://therealdeal.com/miami/2017/10/10/miami-beach-preservation-board-greenlights-demolition-of-lincoln-road-building/>), including a near total demolition of the building, in October 2017.

The property was originally developed in 1924 as Mediterranean Revival-style structure.

Both landlord and tenant negotiated the lease

(<https://therealdeal.com/miami/2015/12/08/litigation-holding-lincoln-road-properties-hostage-moves-forward/>) knowing that zoning could change and thereby prevent the operation of a Walgreens on Lincoln Road, Heise said. According to Thomas' order, Walgreens missed an April 23, 2018 deadline to obtain the building permits, waiting months to apply for them.

Thereafter, the city of Miami Beach changed the zoning to effectively prohibit Walgreens from operating on Lincoln Road. Walgreen subsequently sued 947 Lincoln Road Holdings seeking a declaration that it did not have to pay for the 10 years of the lease term. The pharmacy chain had agreed to pay \$209,000 a month plus real estate taxes.

Following a Sept. 9 hearing, Thomas issued his ruling that rejected Walgreen's claim that 947 Lincoln Road Holdings had improperly obtained the entitlements through fraud.