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TOWN OF DAVIE  
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ADM. SVC. DEPT.

AMENDED  
TOWN ATTORNEY REPORT

DATE: February 1, 2001  
FROM: Monroe D. Kiar   
RE: Litigation Update

1. **Kuegler v. Town of Davie:** The trial was tentatively scheduled to begin on January 25 and continued through January 26, 2001. A medical malpractice case being tried before us however, did not conclude timely enough to allow our case to begin and therefore, the case was reset by the Court to be tried on February 5 and 6, 2001.
2. **Sunrise Litigation:** The Town Attorney has been advised that the preliminary documents requested by the Town representatives and their expert, Mr. Stanley Cohen, have been provided to Mr. Cohen, who is now reviewing that documentation. To date, the Town Attorney has not been advised as to when a third meeting is to be scheduled.
3. **Ordonez, et al v. Town of Davie:** The Town Attorney has spoken with our outside attorney, Michael Burke, who will be filing a Motion for Summary Judgment requesting that the Mayor, former Chief of Police and Town of Davie be dismissed as defendants in this lawsuit. In the meantime, Mr. Burke has requested copies of all discovery obtained by the Plaintiffs from various physicians who have treated and/or examined the plaintiffs. Mr. Burke anticipates filing his Motion for Summary Judgment in the near future.
4. **Sessa v. Town of Davie (Forman):** The plaintiffs have executed a Stipulation agreeing to binding mediation. The Agreement was approved by the Town Council and submitted to the Court for its approval. After the Court signs the Order, binding mediation shall be scheduled before Judge Gerald Mager.
5. **Coastal Carting Limited, Inc. v. City of Sunrise, et al:** E. Bruce Johnson, our attorney, has indicated that the County is once again discussing refinancing the Waste District Bonds. The attorney for the plaintiff indicates that if the County does that and a settlement is reached with the County, then, at that point, he will consider filing a Motion to Dismiss,

but at this time, intends to hold off filing such a motion. Mr. Johnson recommended to the Florida League of Cities several weeks ago that the plaintiff's attorney be given an additional 60 days to file the Motion to Dismiss and if failing to do so, then Mr. Johnson will file such a motion with Judge Gonzalez. The 60 days continue to run.

6. **Seventy-Five East, Inc. and Griffin-Orange North, Inc. v. Town of Davie:** The attorney for the plaintiff filed a motion requesting that oral argument be heard by a three judge panel. The plaintiff's motion was heard on January 29, 2001 and denied by Chief Judge Ross. These cases were consolidated and are currently to be heard by Judge Cocalis. The Plaintiff has filed an "Amendment and Supplement" to its initial Brief and Mr. Burke has indicated that he will file an appropriate response thereto.
7. **MVP Properties, Inc.:** Our outside legal counsel, Michael Burke, has filed a Motion for Summary Judgment on behalf of the Town of Davie asking that the plaintiff's Complaint be dismissed under the applicable Federal Rules of Civil Procedure. The Motion for Summary Judgment continues to be pending. This matter has been reset for trial during the two week period commencing December 3, 2001 before United States District Judge Paul C. Huck at the Federal Courthouse in Miami, Florida. A call of the trial calendar is scheduled for the morning of November 28, 2001.
8. **Cummings v. Town of Davie:** This matter has been set to tentatively go to trial during the 4 week trial period commencing April 26, 2001. The Town Attorney's office has met with or spoke over the phone with several potential witnesses.
9. **Department of Community Affairs v. Town of Davie:** At the last Council Meeting the Davie Town Council approved the Resolution of the Town of Davie, Florida authorizing the Mayor to execute the Stipulated Settlement Agreement with the State of Florida, Department of Community Affairs pertaining to DOAH Case Number 99-1308 GM. The original Stipulated Settlement Agreement was signed by the Mayor and approved as to form by the Town Attorney and will be submitted to the Department of Community Affairs for its execution before presentment to the Court.
10. **Town of Davie v. Malka:** Code Enforcement Officer Stallone has spoken with the Malkas and their attorney. The parties have agreed that the Malkas will complete construction of the exterior of their residence no later than March 31, 2001. After completion of the exterior project, the Malkas will be permitted to continue to proceed with the interior work as to the remaining interval of the six month building permit, to its completion. The Malkas however, will not be granted any additional extensions beyond the current six month permit.
11. **City of Pompano Beach, Davie, et al v. Florida Department of Agriculture and Consumer Services:** The Defendants, Florida Department of Agriculture and Consumer Services and Bob Crawford had filed a Verified Motion seeking to disqualify Judge Leonard Fleet from further hearing these proceedings. The Defendants' Motion to Disqualify was denied by the Court on January 22, 2001. On January 24, 2001, Judge

Fleet also entered an Order scheduling a hearing on the Motion for Class Certification filed by Plaintiff, Kathryn Cox and has requested that all parties seeking class certification submit written argument to the Court as to whether or not relief in the nature of inverse condemnation is permissible for non-commercial fruit tree owners whose fruit trees have been destroyed under the direction of the Defendants, even though such trees were not patently infected with "Citrus Canker" bacterium. The Defendants have filed an appeal of Judge Fleet's Final Order with the 4<sup>th</sup> District Court of Appeal of the State of Florida. The 4<sup>th</sup> DCA entered an Order directing the Appellant (Department of Agriculture and Consumer Affairs) to file appropriate directions to the Clerk under Florida Rule of Appellate Procedure 9.200(a)(2) within 10 days of the Court's Order and amending the times for preparing the Record on Appeal and extending service of Briefs by the parties.

12. **Christina Mackenzie Maranon v. Town of Davie:** Our outside legal counsel, Richard H. McDuff has filed a Motion for Final Summary Judgment on behalf of the Defendants, Town of Davie and Police Officer Quentin Taylor seeking to dismiss both parties as defendants in this lawsuit. The Plaintiffs have filed a Memorandum in Opposition to our Motion for Final Summary Judgment and in turn, have filed for Summary Judgment as to Liability to which Mr. McDuff is preparing a reply.