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TOWN ATTORNEY REPORT

DATE: June 14, 2001
FROM: Monroe D. Kiar 
RE: Litigation Update

1. **Sunrise Water Acquisition Negotiations:** Mr. Stanley Cohen met with Mr. Willi, the Town Attorney, the Town's outside special legal counsel, and individually with the Councilmembers to discuss further the progress being made regarding further negotiations with the City of Sunrise. The Town Attorney's Office has prepared a draft of a letter to be sent to the City of Sunrise regarding these negotiations and the limited amount of documentation provided by Sunrise to Mr. Cohen and requesting that the City of Sunrise provide all documentation listed therein. Mr. Cohen has been on vacation in Europe for the last two weeks and therefore, the Town Attorney has been unable to contact him to clarify one final issue to be included in the letter to Sunrise.
2. **Ordonez, et al v. Town of Davie:** Shortly before this matter went to trial, the League of Cities offered the plaintiffs \$75,000.00 to settle this matter. The plaintiffs initially accepted this offer and thereafter, the attorney for the plaintiffs indicated that he did not have authority to accept the "tentative settlement agreement" and the court so ruled that the plaintiff was not bound by the tentative settlement agreement and set aside the settlement agreement. Thereafter, the parties went to trial and the jury brought in a zero verdict.
3. **Sessa v. Town of Davie (Forman):** The parties have executed a Stipulation Agreement agreeing to binding mediation. The Stipulation was approved by the Court and binding mediation has been tentatively scheduled for September, 2001 before retired judge, Gerald Mager.
4. **Coastal Carting Ltd., Inc. v. City of Sunrise, et al:** This matter has been settled by the Resource Recovery Board and the Plaintiffs, Waste Management and Coastal Carting Ltd. The Town is to be dismissed as a defendant in this lawsuit and is to receive a special limited release discharging it of any liability as to any of the claims or causes of action

raised against the Town in this litigation. In the meantime, another entity is seeking to intervene in this lawsuit and has filed a Memorandum of Law in Opposition to the Defendants' Joint Motion to Vacate the Court Order of May 5, 1999 which granted the original Plaintiffs' Motion for Summary Judgment. Mr. Bruce Johnson, our outside legal counsel, feels that this new party that is seeking to set aside the Settlement Agreement in this lawsuit and whose Motion to Vacate remains pending, will not be successful. In response to the Motion to Vacate, Mr. Burke has filed a Memorandum of Law in Opposition to the Motion to Vacate.

5. **Seventy-Five East, Inc. and Griffin-Orange North, Inc. v. Town of Davie:** A final hearing on the Petition for Writ of Certiorari will be conducted sometime during the Court's four week trial docket commencing July 30, 2001. Mr. Burke and the undersigned have met with several members of the Town Council individually to discuss further the status of this case. It is anticipated that it should be in the early part of August, 2001 when the matter is tried. It is also anticipated that oral argument on the Motions will take approximately 1/2 day.
6. **MVP Properties, Inc.:** The United States District Judge, Paul C. Huck, has granted the Town of Davie's Motion for Summary Judgment and has entered a Final Summary Judgment in favor of the Town of Davie and against the Plaintiff, MVP Properties, Inc. In pertinent part, Judge Huck held that the Town's regulations (Ordinance 97-73) concerning the requirements for an entrance gate feature in low density residential developments does not impact any of Plaintiff, MVP's fundamental civil rights, that the general requirements that an entrance gate feature be used in conjunction with the secure perimeter wall is rationally related to furthering a legitimate municipal purpose and that MVP abandoned its request for a gated entrance feature rather than seek Town Council approval to install a gated entrance without construction of a perimeter wall. Plaintiff, MVP has filed a Motion for Reconsideration of the Court's ruling and in opposition thereto, our outside counsel, Michael T. Burke has filed a Memorandum of Law in Opposition to the Plaintiff's Motion for Reconsideration. Plaintiff, MVP had until June 13, 2001 in which to file a Notice of Appeal and as of the date that this Litigation Report has been written, I have not received word from Mr. Burke as to whether he has received a copy of the Notice of Appeal, if any. Mr. Burke has indicated that he intends to file a Motion to Tax Costs on behalf of the Town against MVP.
7. **Cummings v. Town of Davie:** The attorney for the plaintiff, Laura N. Camp, had prepared the initial draft of the Stipulation of Settlement which was reviewed by the Town Attorney's Office. The Town Attorney's Office thereafter, prepared its own draft of the Stipulation which it sent back to Ms. Camp. Ms. Camp found this to be agreeable with two minor changes which we have made, and the final draft of the Stipulation has been sent to Ms. Camp so that her clients can sign same. Upon receipt of the executed Stipulation for Settlement by Mr. and Mrs. Cummings, the Stipulation for Settlement will be presented to the Town Council for its approval.
8. **Department of Community Affairs v. Town of Davie:** On May 25, 2001 the Town of

Davie Local Planning Agency met at which time, it considered an Ordinance of the Town of Davie, Florida amending the text of the Town of Davie Comprehensive Plan by amending the transportation element to revise the level of service standard for Interstate 595, pursuant to the Stipulation Settlement Agreement with the Florida Department of Community Affairs (DOAH Case Number 99-1308 GM). At the meeting of May 23, 2001, the Local Planning Agency voted 4-0 to recommend approval of the proposed Amendment. The Ordinance provides that the revised level of service measurement allows projects to be approved so long as the traffic generated does not degrade below the LOS D in the peak direction. The intent is for development along I-595 to be of a type which does not generate excessive or frequent vehicle trip, such as offices and research and development buildings. The approval of the change of the text of the transportation element of the Comprehensive Plan as recommended by the Local Planning Agency was presented to the Town Council at its June 6, 2001 meeting where it was approved by the Davie Town Council. The Department of Community Affairs has been advised that upon final approval, the Town will submit the revised language to the Department of Community Affairs for its review and to determine if the amendment is in compliance with the Department's standards.

9. **Town of Davie v. Malka:** The Town Attorney's Office has been in contact with Code Enforcement Officer, Mr. Daniel Stallone. Mr. Stallone reports that the new building official, Mr. Michael Sprovero, is preparing the necessary requirements to have this matter placed on the July meeting of the Unsafe Structures Board. Further, the Deputy Building Official and the Code Enforcement Inspector went to the site and took photographs to be entered into evidence at the Unsafe Structures Board meeting.
10. **City of Pompano Beach, et al v. Florida Department of Agriculture and Consumer Services:** The Florida Department of Agriculture has filed an Appeal of Judge Fleet's Order in which the Judge ruled in favor of Davie, the County and other cities, enjoining the Florida Department of Agriculture and Consumer Services from further cutting of healthy citrus trees in Broward County. Oral argument was heard on June 6, 2001 during which the attorneys for the Florida Department of Agriculture and Chief Appellate Attorney for Broward County presented their respective sides of the issue. The Town Attorney, along with attorneys from several other municipalities, sat with the County Attorney at the Appellees' table in the courtroom while oral argument was being presented in order to further impress upon the Judges of the 4th District Court of Appeals the important significance of this matter, not only to the County, but to the municipalities as well. It is anticipated that a ruling will be rendered by the 4th District Court of Appeals in the relatively near future.
11. **Christina MacKenzie Maranon v. Town of Davie:** The Town of Davie has filed a Motion for Summary Final Judgment on behalf of the Town of Davie and Police Officer Quentin Taylor seeking to dismiss both parties as defendants in this lawsuit. The Motion for Summary Judgment continues to remain pending. In the meantime, the Court has removed the case from the trial docket pending its ruling on our Motion for Summary Judgment. There is a good likelihood therefore, that even if our Motion for Summary

Judgment is not granted, that this lawsuit will not be heard before the end of the year, should it go to trial.

12. **Reinfeld v. Town of Davie, et al:** The Florida League of Cities has assigned this to Mr. Michael Burke to represent the Town of Davie in its defense of this lawsuit instituted by the former Town Clerk. The League of Cities has assigned separate legal counsel to represent the two individual defendants. Mr. Burke has been in close contact with the Town Attorney's Office, as has Mr. Marrero, counsel for the individual defendants. The Town Attorney's Office is closely monitoring the progress of this lawsuit. Mr. Marrero has filed a Motion to Dismiss the various counts of the lawsuit as it pertains to the individual defendants, and it is believed that the Court will grant the Motions to Dismiss.