

MONROE D. KIAR  
TOWN ATTORNEY  
TOWN OF DAVIE  
6191 SW 45th Street, Suite 6151A  
Davie, Florida 33314  
(954) 584-9770

TOWN ATTORNEY REPORT

DATE: March 15, 2001  
FROM: Monroe D. Kiar   
RE: Litigation Update

TOWN OF DAVIE  
2001 MAR 15 PM 3:00  
ADM. SVC. DEPT.

1. **Kuegler v. Town of Davie:** This matter was tried before Judge Herbert Moriarty on February 5 and 6, 2001. Judge Moriarty ruled in favor of the Plaintiff primarily based upon his belief that the Town, through its inaction, had abandoned its right to construct a trail along 142<sup>nd</sup> Avenue. The Town Council at its meeting of March 7, 2001, was advised by the Town Attorney that it had thirty (30) days from the date of the entry of the Final Judgment in which to file a Notice of Appeal or otherwise, the Judge's ruling would stand and be final. The Town Council voted not to appeal the Judge's ruling and directed the Town Attorney not to file a Notice of Appeal and further voted to refund to the Plaintiff her costs and attorney's fees. The Town Council directed the Town Attorney to contact the Plaintiff's attorneys, Mr. Brady and Mr. Ceasar to obtain a breakdown of their legal costs and fees. The Town Attorney has written to both Mr. Brady and to Mr. Ceasar requesting a breakdown of their respective legal fees and costs. To date, only Mr. Ceasar has responded and a copy of his response is attached.
2. **Sunrise Water Acquisition Negotiation:** Two meetings ago Mr. Willi brought the Town Council up to date on this matter and indicated that the Town is moving forward in its preparation for further negotiations with the City of Sunrise for the possible acquisition of the water system.
3. **Ordonez, et al v. Town of Davie:** Our outside counsel, Mr. Michael Burke continues to conduct further discovery in these proceedings. Mr. Burke has requested copies of all discovery obtained by the Plaintiffs from the various physicians who have treated and/or examined the Plaintiffs. Mr. Burke advises that he will be filing a Motion for Summary Judgment in the very near future.
4. **Sessa v. Town of Davie (Forman):** The parties have executed a Stipulation agreeing to binding mediation. The Stipulation was submitted to the Court and approved by the Judge.

The Town Attorney and Mr. Collins Forman, the attorney for the Forman family, have conferred and will be scheduling a binding mediation before retired judge, Gerald Mager.

5. **Coastal Carting Ltd., Inc. v. City of Sunrise, et al:** The Town Attorney has spoken with E. Bruce Johnson, our outside legal counsel, who has indicated that the attorney for the County has still not yet filed a Motion dismissing the City Defendants, including the Town of Davie, despite his previous indication that he would do so. As indicated in prior Litigation Updates, Mr. Johnson is confident that the Town of Davie will ultimately be dismissed as a defendant in this lawsuit. Mr. Burke has expressed his displeasure to the attorney for the County and has advised the Town Attorney that he intends to bring this matter to the attention of the Court at the next Status Conference and at that time, request that the Court enter an Order dismissing the City Defendants, including Davie.
6. **Seventy-Five East, Inc. and Griffin-Orange North, Inc. v. Town of Davie:** Our outside legal counsel, Michael Burke has advised the Town Attorney's office that he recently attended a Status Conference before Judge Cocalis concerning these matters. Judge Cocalis advised Mr. Burke that a final hearing on the Petitions for Writ of Certiorari will be conducted sometime during the Court's 4 week trial docket commencing July 30, 2001. Mr. Burke indicates that oral argument on the Motions for Summary Judgment are anticipated to take approximately 1/2 day. He also advises that as the July 30, 2001 docket approaches, he will advise the Town Attorney's office exactly when the oral argument will take place.
7. **MVP Properties, Inc.:** The Town of Davie's Motion for Summary Judgment continues pending. The Plaintiff's attorney has filed a Response and Memorandum of Law in Opposition to the Town's Motion for Summary Judgment. Mr. Burke indicates that the primary arguments advanced by the Plaintiff, MVP are the Town of Davie wrongfully delayed processing its request for a gated entrance and that the Ordinance ultimately adopted to deny the request does not further a legitimate municipal purpose and has not been applied to other similar developments. Mr. Burke advises that he in turn, has prepared a Reply Memorandum in support of the Town's Motion for Summary Judgment.
8. **Cummings v. Town of Davie:** This matter has been set tentatively to go to trial during the 4 week trial period commencing April 26, 2001. Pursuant to the concurrence of the Town Council, the Town Attorney's office has retained several expert witnesses to testify on behalf of the Town in this inverse condemnation proceeding. The Town Attorney's office took the depositions of Mr. and Mrs. Cummings and one of their expert witnesses, Gerald McLaughlin. The Town Attorney attended a court ordered mediation in this matter. Also present was Mr. and Mrs. Cummings and their attorney. The Town Attorney will be requesting an Executive Session of the Town Council be scheduled at the next Town Council Meeting so that the Town Attorney's office may discuss in detail with the Town Council, litigation strategy regarding this lawsuit.
9. **Department of Community Affairs v. Town of Davie:** The Stipulated Settlement Agreement presented to the Town Council was signed by the Mayor and approved as to

form by the Town Attorney. It was thereafter submitted to the Department of Community Affairs for its execution and thereafter, submitted to the Court which approved same. This matter has been abated pursuant to the Court's Order of February 16, 2001, to allow the parties to comply with the provisions of the Stipulated Settlement Agreement.

10. **Town of Davie v. Malka:** The Town Attorney's office has been in contact with the Code Enforcement Officer, Mr. Daniel Stallone. Mr. Stallone, upon his last visit to the Malka property, observed that the Malkas are proceeding in an effort to complete the construction of the exterior of their residence no later than the scheduled March 31, 2001 date. As indicated in prior Litigation Updates, after the Malkas have completed the exterior project, they will be permitted to continue to proceed with the interior work as to the remaining interval of the 6 month Building Permit, to its completion. Mr. Stallone indicates that the Malkas however, will not be granted any additional extensions beyond the current 6 month permit.
11. **City of Pompano Beach, Davie, et al v. Florida Department of Agriculture and Consumer Services:** The Florida Department of Agriculture has filed its Initial Brief and in response thereto, the coalition of cities have submitted their Answer Brief. The Florida Department of Agriculture has also requested that oral argument be permitted in these proceedings. The original Record on Appeal consisting of 10 volumes and 1 envelope of exhibits was transmitted on February 23, 2001 by the Clerk of the Circuit Court, Howard C. Forman, to the Clerk of the 4<sup>th</sup> District Court of Appeal.
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 Plaintiff has filed a Memorandum in Opposition to our Motion for Summary Judgment and the Motion continues to remain pending. The Court has removed this case from the trial docket pending a ruling on our Motion for Summary Judgment.
13. **National City Mortgage Co. v. Dwayne E. Robinson and Town of Davie, et al:** The Plaintiff, National City Mortgage Co., recently filed a Motion for Summary Judgment alleging that its Note and Mortgage were paramount in right and dignity to the liens of all defendants, including the Town of Davie. The Town Attorney's office filed an Answer and Affirmative Defenses alleging that the Town's Order Imposing Municipal Enforcement Lien dated August 24, 1989 and recorded in the Public Records of Broward County prior to the recording of the Plaintiff's mortgage was in fact superior in time and dignity to that of the Plaintiff's Mortgage and therefore, should not be foreclosed in these proceedings. The Town Attorney's office attended the hearing on the Plaintiff's Motion for Summary Judgment. The Court agreed with the Town's position and the Plaintiff has asked for a re-hearing.

FROM :

PHONE NO. :

Mar. 13 2001 03:18PM P1

MITCHELL CEASAR, P.A.  
ATTORNEY AT LAW  
SUITE 300  
6161 WEST BROWARD BOULEVARD  
PLANTATION, FLORIDA 33324  
BROWARD (954) 475-2500

RECEIVED  
3/13/01

March 12, 2001

Monroe D. Kiar  
Town Attorney, Town of Davie  
Town Attorney's Office  
6191 SW 45<sup>th</sup> Street  
Suite 6151A  
Davie, Florida 33314

Via Fax: 584-9723

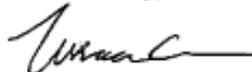
Re: Horse Trail

Dear Mr. Kiar,

This is to state that I represented various homeowners in Davie regarding the proposed trail on their property. I attended various governmental meetings, including Planning and Zoning and Town Council. I also met with various officials, and spoke with them telephonically. Additionally, some minor legal research was also conducted.

Thank you.

Yours truly,



Mitchell Ceasar

MC/ik

**TOWN ATTORNEY'S OFFICE**  
**TOWN OF DAVIE, FLORIDA**  
6191 SW 45th Street  
Suite 6151A  
Davie, Florida 33314  
(954) 584-9770

**Monroe D. Kiar**  
Town Attorney

March 9, 2001

Mitchell Ceasar, Esquire  
8181 West Broward Boulevard  
Suite 300  
Plantation, Florida 33324

Re: Invoice of March 5, 2001 to Mr. Bruce McGhee (Kuegler v. Town of Davie)

Dear Mr. Ceasar:

The Davie Town Council tentatively agreed to pay your invoice of \$3,500.00 conditioned upon my receiving from you an itemized breakdown of services rendered and conditioned upon my review for reasonability. Accordingly, will you please send to me as soon as possible, an itemized statement of the professional services rendered by your firm on behalf of Mr. Bruce McGhee with regard to the 142<sup>nd</sup> Avenue trail. I would appreciate it if you could send this to me as soon as possible so that I may complete my review prior to the next Town Council Meeting which would be on March 21, 2001.

Thank you for your attention to this matter.

Sincerely,



MONROE D. KIAR

MDK/gmv

cc: Tom Willi, Town Administrator  
Mayor and Councilmembers

**TOWN ATTORNEY'S OFFICE**

**TOWN OF DAVIE, FLORIDA**

6191 SW 45th Street

Suite 6151A

Davie, Florida 33314

(954) 584-9770

**Monroe D. Kiar**

Town Attorney

March 9, 2001

James C. Brady, Esquire  
Brady & Coker, P.A.  
501 Northeast 8<sup>th</sup> Street  
Fort Lauderdale, Florida 33304

Re: Invoice of March 2, 2001 to Mr. Bruce Megee (Kuegler v. Town of Davie)

Dear Mr. Brady:

The Davie Town Council tentatively agreed to pay your invoice of \$20,574.87 conditioned upon my receiving from you an itemized breakdown of services rendered and conditioned upon my review for reasonability. Accordingly, will you please send to me as soon as possible, an itemized statement of the professional services rendered by your firm on behalf of Mr. Bruce Megee with regard to the 142<sup>nd</sup> Avenue trail. I would appreciate it if you could send this to me as soon as possible so that I may complete my review prior to the next Town Council Meeting which would be on March 21, 2001.

Thank you for your attention to this matter.

Sincerely,



MONROE D. KIAR

MDK/gmv

cc: Tom Willi, Town Administrator  
Mayor and Councilmembers