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TOWN ATTORNEY REPORT

DATE: July 12, 2001  
FROM: Monroe D. Kiar   
RE: Litigation Update

1. **Sunrise Water Acquisition Negotiations:** The Town Attorney's Office prepared a letter to the attorneys for 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. This letter was mailed to Attorney Susan Fleischner Kornspan requesting the extensive documentation needed by Mr. Cohen in order to enter into meaningful negotiations with the City of Sunrise for the acquisition of the water and sewer system. Ms. Kornspan returned from a 2-1/2 week vacation and contacted the Town Attorney by phone relevant to the contents of our letter. The Town Attorney's Office went through the letter with her and re-affirmed over the telephone the documentation needed by Mr. Cohen and which we expect to receive from the City of Sunrise.
2. **Ordonez, et al v. Town of Davie:** This matter went to trial and the jury returned a zero verdict. Mr. Burke has moved to tax court costs against the Plaintiffs. The Plaintiffs have until the close of this business day within which to file a Notice of Appeal to the 11<sup>th</sup> Circuit Court of Appeals. Mr. Burke has indicated that he does not believe that there was any harmful error committed during the trial and as a result, does not anticipate that the Plaintiffs will have a basis for filing an appeal in this lawsuit.
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 Fall, 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 all claims or causes of action raised against the Town. 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. Our outside legal counsel, Mr. Johnson, feels that this new party that is seeking to set aside the Settlement Agreement in this lawsuit will not be successful. In response to the Motion to Vacate, Mr. Johnson has filed a Memorandum of Law in Opposition to the Motion to Vacate. The Motion to Vacate and Set Aside the Settlement Agreement continues pending.

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 the Mayor and Councilmembers individually to discuss further the status of this case. It is anticipated that it should be 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, granted the Town of Davie's Motion for Summary Judgment and entered a Final Summary Judgment in favor of the Town of Davie and against the Plaintiff, MVP Properties, Inc. MVP Properties, Inc. filed a Motion for Reconsideration which Motion was denied by the Judge. MVP has until July 19, 2001 within which to file a Notice of Appeal in the event MVP seeks further review of the matter by the United States Court of Appeals for the 11<sup>th</sup> Circuit. Mr. Burke, our outside legal counsel, believes that MVP will file such a Notice of Appeal and seek further Court review by the Appellate Court.
7. **Cummings v. Town of Davie:** The Town Attorney's Office prepared a draft of the Stipulation of Settlement in this case which has now been executed by Mr. and Mrs. Cummings and which was approved by the Town Council at its July 3, 2001 meeting. The Council had previously authorized the Town Attorney's Office to accept the settlement proposal now outlined in the Stipulation for Settlement at an Executive Session.
8. **Town of Davie v. Malka:** The Town Attorney's Office has been in contact with Code Enforcement Officer, Mr. Daniel Stallone, who reports that our Building Official, Mr. Sprovero is preparing the necessary requirements to have this matter placed shortly on a meeting of the Unsafe Structures Board. The Deputy Building Official and Code Enforcement Inspector have gone to the site and have taken photographs to be entered into evidence at the Unsafe Structures Board Meeting. Further, the Building Official has sent out an initial notice to the Malkas relevant to the proceedings that will take place before the Unsafe Structures Board.
9. **City of Pompano Beach, et al v. Florida Department of Agriculture and Consumer Services:** The coalition of cities have filed a Motion for Clarification and Reconsideration of the 4<sup>th</sup> District Court of Appeals reversal of Judge Fleet's ruling in which he enjoined

the Department of Agriculture and Consumer Services from cutting down healthy, but exposed trees within a 1900 foot radius of an infected tree. The Motion filed by the coalition of cities remains pending.

10. **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.
11. **Reinfeld v. Town of Davie, et al:** The Florida League of Cities attorney assigned to represent the individual defendants, Mr. Marrero, has filed Motions to Dismiss the two individual defendants and one of the individual defendants has been dropped from the lawsuit. Mr. Marrero is confident that the second individual defendant will also be dismissed as a defendant in these proceedings. Further, Mr. Burke, who is assigned by the League of Cities to represent the Town, has filed his Answer to the Amended Complaint. Mr. Burke indicates that he will commence discovery procedures shortly.
12. **Department of Community Affairs v. Town of Davie:** The County Commission, after extensive debate, refused to approve the County Land Use Amendment on the Flamingo Center Amendment. Thus, the County land use designation remains R-5.