

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

TOWN ATTORNEY REPORT

DATE: June 29, 2000
FROM: Monroe D. Kiar 
RE: Litigation Update

1. **Sunrise Litigation** - A Mediated Settlement Agreement was formulated at the mediation session held on May 23, 2000. An Executive Session was held to permit the Town Council to meet and discuss the contents of the Mediated Settlement Agreement which proposed Mediated Settlement Agreement was rejected by the Town Council. Attorney Serota filed a Motion with the Court seeking a continuance of the trial date and the Court entered such an Order scheduling the trial for the early Fall. Both sides have recommenced discovery procedures. Mr. Serota has requested that another Executive Session be scheduled for further consideration of the Mediated Settlement Agreement.
2. **Transamerican Land Corp.** - After discussions with the Plaintiff's attorney, the Plaintiff has filed a Voluntary Dismissal dismissing the Town of Davie as a defendant in this litigation.
3. **Coastal Carting Ltd., Inc. v. City of Sunrise, et al** - Although Bruce Johnson has requested of the Plaintiff's attorney that it dismiss the municipal defendant, including Davie, from this lawsuit, as of this date, Mr. Johnson has not received any word from Plaintiff's attorney in response to the request.
4. **MVP Properties, Inc.** - A Pretrial Conference has been scheduled by the Federal Judge assigned to this case for February 16, 2001. Mr. Burke anticipates that if this matter should go to trial, that it will be tried sometime in March or April, 2001. In the meantime, Mr. Burke continues his discovery procedures.

5. **Street Vendors Ordinance** - As indicated previously, after extensive review of the applicable case law, a Memorandum was issued by the Interim Town Attorney suggesting that a street ordinance, if properly drawn, can be successfully upheld if constitutionally challenged in court. The Town Attorney has spoken with Mr. Michael Burke, whose firm has in the past, successfully litigated similar constitutional issues, and his firm has offered to represent the Town in drawing the ordinance and defending same, should it be challenged in court, at the rate of \$150.00 per hour.
6. **LDG Corporation** - This matter continues to be litigated and the Department of Transportation is contending the Town does not have the right to require a variance in this case, or to require the property owner to make the improvements which were conditioned by the Town for granting the variance to the property owner.
7. **Orandello** - The Temporary Injunction issued by the Court restraining Mr. Orandello from selling ice cream in Davie continues to be in full force and he has made no effort since last report to lift the Temporary Injunction. Further, Mr. Orandello has sent to this Town Attorney a letter wishing to settle the Code Enforcement Lien and has made a proposal to do so for the sum of \$20,000.00. A copy of Mr. Orandello's offer has been forwarded to the Town Administrator and to the Code Enforcement Department for its review and consideration.
8. **142nd Avenue, Kuegler v. Town of Davie** - We have recently received part of the production which we had requested from the Plaintiff and we are in the process of preparing an opposition to the Plaintiff's Summary Judgment which is to be heard in July, 2000.
9. **Cummings** - This is an action filed by the Plaintiffs for inverse condemnation contending the Town constructed a public sidewalk over a portion of the Plaintiffs' property and thereby, deprived the Plaintiffs of the beneficial enjoyment of the property under the sidewalk. The Plaintiffs served upon the Town their First Request for Production of Documents and these were timely responded to by the Town Attorney with the assistance of Mr. Robert Rawls.
10. **Davie v. Discount Auto Parts, Inc.** - The Town Council previously approved a request for mitigation of the Code Enforcement Lien in this case from \$21,750.00 to the amount of \$5,225.44, requiring that same be paid within 45 days of the enactment of the Resolution. The Defendant has in fact paid the \$5,225.44 within the 45 days of the agreement and therefore, this case is now closed.
11. **ROHO Flamingo - ICE Plat, (Control #000104)** - An initial draft of a Complaint prepared by Mr. Webber was forwarded to the undersigned and I have since made some revisions. It is anticipated that the Complaint will be filed in the very near future. There are some issues to be first discussed with staff.

12. **Davie v. Statewide Transportation & Recovery Services, Inc.** - A Judgment in the amount of \$41,175.25 was obtained against the Defendant. Deposition of one of the principals of the business was recently conducted in an effort to locate additional assets of the corporation. Further depositions will be conducted shortly in a further effort to locate corporate assets that may continue to exist.

MDK/gmv

RECEIVED
6/20/00

To Monroe Kiar,

AS PER OUR PHONE CONVERSATION, I AM WILLING TO OFFER THE TOWN OF DAVIE THE SUM OF \$20,000.00 TWENTY THOUSAND DOLLARS TO SETTLE MY CODE LIENS & ATTORNEY FEES. THIS LETTER IS FOR NEGOTIATION PURPOSES ONLY AND CANNOT BE USED IN COURT OF LAW. I ALSO WANT TO BE REINSTATED FOR 2 YRS OF OCCUPATIONAL LICENSES THAT I PAID TO MITCHELLE MELGRAM WHICH SHE AND TOWN KEPT MY MONEY AND DECLINED ME. IF THIS OFFER IS ACCEPTED I NEED A LETTER FROM THE TOWN OF DAVIE TO GIVE TO A FINANCE COMPANY SO I CAN BE APPROVED FOR A LOAN. I CAN BE REACHED AT 954-2401276.

THANK YOU
Joe Gravello
