

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

TOWN ATTORNEY REPORT

DATE: September 14, 2000

FROM: Monroe D. Kiar 

Re: Litigation Update

1. **Sunrise Litigation -** Representatives of the Town of Davie and the City of Sunrise will meet for a second round of negotiations regarding the possible purchase and sale of the Sunrise utility lines and appurtenant facilities located within Davie on September 18, 2000. The general consensus of the members of the Davie negotiation team was that the initial meeting was a fruitful one.
2. **Ordonez, et al v. Town of Davie -** This is a lawsuit naming the Town of Davie, its Police Officers, its former Chief of Police and one of its elected officials as Defendants. This matter is being vigorously defended by Attorney Michael Burke. Mr. Burke advises that the lawsuit has been set for jury trial during the two week period commencing May 29, 2001, before United States District Judge William Dimitrouleas at the Federal Courthouse in Fort Lauderdale, Florida. A Calendar Call is scheduled for the morning of Friday, May 25, 2001. The depositions of plaintiffs, Helen Ordonez and Ricardo Flores are scheduled for September 25, 2000. The depositions of plaintiffs, Durcy Ordonez and Dulce Flores are scheduled for September 27, 2000. Moreover, Mr. Burke is in the process of preparing Motions for Summary Judgment on behalf of the elected official and the former Chief of Police seeking their dismissal as defendants.
3. **Department of Community Affairs v. Town of Davie -** The Town Attorney, Mr. Mark Kutney and Mr. Jeff Katims and Attorney C. William Laystrom met and discussed the provision they wished included in the proposed Settlement Agreement between the DCA and the Town of Davie. Once this has been completed, it will be presented to the Town Council for its review.
4. **Sessa v. Town of Davie (Charles Powers) -** Binding mediation is scheduled to be tried before Judge Gerald Mager on October 25, 2000. In the meantime, Mr. Powers has made an offer

to the Town to settle its claim for the sum of \$20,000.00. A copy of the settlement offer from Attorney James Brady is attached. The Town Attorney has asked for the input from the Finance Director and Town Staff with regard to the settlement proposal. The ultimate determination as to whether the Town wishes to accept the settlement proposal is within the authority of the Town Council.

5. **Coastal Carting, Ltd., Inc. v. City of Sunrise, et al** (includes Town of Davie as a Defendant) - Previously, Mr. Johnson had been advised that the Resource Recovery Board had agreed to dismiss the various municipalities, including the Town of Davie, but as of this date, Mr. Johnson has still not yet received the signed Stipulation from Plaintiff's attorney dismissing the municipalities. A Status Conference is set in this case for September 29, 2000 at 10:00 A.M., at which time Mr. Johnson will seek a dismissal of the municipalities by the United States District Court Judge.
6. **ROHO Flamingo - ICE Plat (Control #000104)** - This Town Attorney has made revisions to the initial draft of the Complaint prepared previously by Mr. Webber and a copy was sent to the attorney for ROHO. The current Town Attorney also made revisions to the Stipulation previously prepared by Mr. Webber or by the attorney for ROHO, and it has also been sent to the attorney for ROHO Flamingo requesting that it be executed by the principals of ROHO Flamingo. The Town Attorney has recently received a letter from the attorney for ROHO Flamingo requesting certain changes to the proposed Stipulation.
7. **Seventy-Five East, Inc. v. Town of Davie** - Our outside attorney, Mr. Michael Burke, has indicated that the Plaintiff's attorney is seeking to consolidate this case with the Griffin-Orange North, Inc. v. Town of Davie litigation. Mr. Burke intends to oppose any such attempt to consolidate the two cases.
8. **Griffin-Orange North, Inc. v. Town of Davie** - Mr. Burke has filed his response to the Complaint. He anticipates the Plaintiff will now file a reply brief and thereafter, oral argument will be scheduled by the Court. Mr. Burke advises that he will oppose any consolidation of this case with the Seventy-Five East, Inc. case.
9. **Street Vendors Ordinance** - As previously indicated, after extensive review of the applicable case law, a Memorandum was issued by the Town Attorney suggesting that a street ordinance, if properly drawn, can be successfully upheld if constitutionally challenged in court. The invoice in the amount of \$5,000.00 from the expert hired by the prior Town Attorney with the authorization of the Council, has been forwarded to the Town for payment.
10. **MVP Properties, Inc.** - This Town Attorney spoke with our outside counsel, Michael Burke, who indicated that he did not receive copies of the Appellate Briefs submitted by either Town Attorney Webber or the opposing counsel for MVP. I have written to Mr. Webber requesting that he provide copies of all significant pleadings to the undersigned along with any case law that he might have with regard to the prohibition against privatization of roads.

11. **LDG Corporation** - LDG Corporation and the DOT went to trial this week. Mr. Mark Kutney was subpoenaed and testified in court. The Town has previously been dismissed as a defendant. Mr. Burke is awaiting the jury's decision.
12. **Orandello** - The Code Enforcement Officer will make a presentation to the Town Council at the September 20, 2000 Town Council Meeting. At the last Town Council Meeting, Mr. Orandello made representations to the Town Council that he was merely an employee of 84 Vending, Inc. Research conducted by the Code Enforcement Officer however, revealed that Mr. Orandello is both a director of 84 Vending, Inc., was the incorporator who incorporated the corporation, and is the resident agent for service.
13. **142nd Avenue, Kuegler v. Town of Davie** - The parties will be conducting the depositions of the various witnesses shortly in preparation for the trial.
14. **Cummings** - The Plaintiffs' attorney served upon the Town Attorney the Plaintiffs' Notice of Service of Interrogatories and First Set of Interrogatories to Defendant, Town of Davie. These have been forwarded to Interim Town Engineer, John Doherty, for his review and assistance in completing the Interrogatories so that our response can be filed in a timely manner.

MDK/gmv

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ALSO MEMBER: VIRGINIA BAR AND
BAR OF THE DISTRICT OF COLUMBIA

SONJA K. KNIGHTON

September 13, 2000

Monroe D. Kiar, Esq.
Town Attorney for Town of Davie
6191 Orange Drive, Suite 6151A
Davie, Florida 33314

RE: Ralph Sessa, et al., v. Town of Davie, et al.,
Case No. 93-12985 CACE 02

Dear Mr. Kiar:

My client has authorized me to offer the City Twenty Thousand (\$20,000.00) Dollars, payable in fifteen (15) business days from the date the settlement is concluded as full, complete and final settlement of all claims arising in connection with the subject case and the assessment associated therewith.

While we contend that the subject parcels received no substantial benefit from the improvements underlying the assessment, we believe that Parcel 9A clearly receives no benefit. As you know, the "benefit" which would justify an assessment against the property must be real and substantial. Ephemeral or theoretical connectivity will not suffice. In this case, the Town relied upon a developer to install the roads and to reimburse the City for its cost. That effort failed because the developer failed. The roads were a substantial benefit to that particular project but in the face of the developer's failure, the Town determined to lay the costs across the properties in the area. We believe that was a fundamental mistake. Nevertheless, we also know that it is better to compromise. So, in light of the cost of mediation on both sides, we

Monroe D. Kiar, Esq.

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RE: Ralph Sessa, et al., v. Town of Davie, et al.,
Case No. 93-12985 CACE 02

think the offer of Twenty Thousand (\$20,000.00) Dollars is fair. Would you please advise me as soon as you can so that I can contact my client and make arrangements for the funds.

Cordially,


JAMES C. BRADY
For the Firm
JCB:bfc

cc: Charles Powers

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