

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: April 18, 2007

Division: County Attorney

Bulk Item: Yes No

Department: County Attorney

Staff Contact Person: Bob Shillinger, ext. 3474

AGENDA ITEM WORDING: Approval of Settlement Agreement to resolve Circuit Court Case No. 2005-CA-420-K, regarding unpaid code enforcement liens.

ITEM BACKGROUND: The County brought this action to enforce unpaid code enforcement liens filed again Liz and his property. The defendant's declining mental health has necessitated appointment of a guardian by the Court and the defendant's mental health status raises questions about his ability to appreciate the nature and consequences of the underlying code enforcement actions. The parties have agreed to resolve their differences amicably and reach a good faith settlement of this matter. The proposed Settlement Agreement is attached as backup.

PREVIOUS RELEVANT BOCC ACTION: Discussion on this subject.

CONTRACT/AGREEMENT CHANGES:

STAFF RECOMMENDATIONS: Approve Settlement Agreement.

TOTAL COST: N/A

BUDGETED: Yes No

COST TO COUNTY: N/A

SOURCE OF FUNDS: _____

REVENUE PRODUCING: Yes No **AMOUNT PER MONTH** _____ **Year** _____

APPROVED BY: County Atty OMB/Purchasing Risk Management

DOCUMENTATION: Included Not Required

DISPOSITION: _____

AGENDA ITEM # _____

IN THE CIRCUIT COURT OF THE 16TH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA
LOWER KEYS CIVIL DIVISION – JUDGE JONES

MONROE COUNTY, FLORIDA

Plaintiff,

vs.

CASE NO.: 2005-CA-420-K

PEDRO MARTINIANO LIZ,

Defendant.

SETTLEMENT AGREEMENT

The Plaintiff Board of County Commissioners of Monroe County (hereinafter (“the County”) and the Defendant Pedro M. Liz (“Liz”) hereby agrees to settle the above-styled matter as follows:

WHEREAS the County brought this action to enforce unpaid code enforcement liens filed against Liz and his property located at Lots 1 and 50, Block 13, Square 46, Maloney Subdivision, Stock Island, Key West, Monroe County, Florida; RE number 00126060-000000, (“the property”) as a result of violations found in Code Enforcement case numbers L2-02-904 and M9-01-293; and

WHEREAS said liens were imposed to secure daily fines totaling \$600.00 per day one of which commenced running on November 26, 2001, the second of which commenced running on March 22, 2002, both of which continue to accrue until the property is either brought into compliance or foreclosed upon by the County; and

WHEREAS the County’s lien against the property, as of March 1, 2007, had reached \$1,095,200.00 plus costs and attorneys fees; and

WHEREAS the County’s incurred costs in the amount of \$228.64 and attorney’s fees in the amount of \$2,500.00 in its efforts to collect this fine as of the date of this agreement; and

WHEREAS the Defendant’s declining mental health has necessitated the appointment of a guardian by the Court in case number 44-2006-MH-46-K; and

WHEREAS, the Defendant’s mental health status raises questions about his ability to appreciate the nature and consequences of the underlying code enforcement actions and the above-styled matter; and

WHEREAS, in consideration of the provisions stated herein, the Guardian for the Defendant has agreed to waive any and all issues related to the Defendant's competency as it pertains to the defense of this matter; and

WHEREAS the parties desire to resolve their differences amicably and reach a good faith settlement of this matter; now therefore, the parties agree to:

1. Within 365 days of the date this agreement is approved by the County Commission, the Defendant agrees to remedy all violations referenced in Code Enforcement cases L2-02-904 and M9-01-293 from the property.
2. If said violations have been cured by the compliance date set forth in paragraph one of this agreement, the fines imposed by the Code Enforcement Special Magistrate shall be forgiven completely except as more fully set forth herein.
3. If said violations have not been cured by the compliance date set forth in paragraph one of this agreement, the Defendant or his agent, including but not limited to personal representative, guardian, and/or attorney in fact, will acknowledge a valid Monroe County Code Enforcement Lien against the property in the agreed amount of \$1,500,000.
4. The compliance date set forth in paragraph one of this agreement may be extended by agreement, or if no agreement is reached between the parties, by the Court for good cause shown.
5. The Defendant agrees to the Court entering judgment against him in the amount of \$3,000.00 to secure payment of the County's costs and attorney's fees in this matter. Said amount shall represent the total fines and costs owed by the defendant. Said judgment shall be entered by the Court at the time it approves this settlement agreement and shall be secured by a lien against the property in the aforementioned amount if not paid within 60 days of the court's judgment.
6. Defendant acknowledges that, to become effective, this agreement must be approved by the Board of County Commissioners at a duly advertised, public meeting.
7. By entering into this agreement, the each party agrees to waive any and all claims that it could have raised and/or potential claims that it might have been able to raise as a result of the above-captioned code enforcement case.

8. Both parties warrant that they have had an opportunity to consult with counsel before entering into this agreement.
9. Each party agrees to bear its own costs and attorney's fees other than as specified in this agreement.
10. The Court shall retain jurisdiction over the matter to ensure compliance with the terms of this agreement. Should any party seek to invoke the power of the Court to compel compliance with the terms of this agreement, the prevailing party shall be entitled to its reasonable costs including attorney's fees.
11. This three page agreement represents the entire agreement. There are no separate or side agreements, either written or verbal, that apply to this matter.

ATTEST:
 DANNY L. KOLHAGE
 CLERK:

BOARD OF COUNTY COMISSIONERS
 OF MONROE COUNTY, Plaintiff

By: _____
 Deputy Clerk

By: _____
 Mario Di Genarro, Mayor

Dated _____


For the Defendant Pedro M. Liz,

Sally Jo Valenzuela

 Notary Public

By: *David Paul Moran*

 Name & Title *ATTORNEY IN FACT*

NOTARY PUBLIC-STATE OF FLORIDA:
 Sally Jo Valenzuela
 Commission # DD531632
 Expires: MAY 01, 2010
 Bonded Thru Atlantic Bonding Co., Inc.

Dated 3-31-07

MONROE COUNTY ATTORNEY
 APPROVED AS TO FORM
Pedro J. Mercado

 PEDRO J. MERCADO
 ASSISTANT COUNTY ATTORNEY
 Date 3/31/07

Horan, Wallace & Higgins
LLP
608 WHITEHEAD STREET
KEY WEST, FLORIDA 33040
(305) 294-4585

FIRST STATE BANK
OF THE FLORIDA KEYS
KEY WEST, FLORIDA 33040
63-43/670

035529

4/2/2007

PAY TO THE ORDER OF MONROE COUNTY \$ 3,000.00

Three Thousand and 00/100 ***** DOLLARS

MONROE COUNTY

VOID AFTER 90 DAYS


AUTHORIZED SIGNATURE MP

MEMO PEDRO LIZ SETTLEMENT AGREEMENT

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HORAN, WALLACE & HIGGINS, LLP

MONROE COUNTY

4/2/2007

035529

3,000.00

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3,000.00