

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

36-1

AGENDA ITEM SUMMARY

Meeting Date: April 10, 2007

Consent

Regular

Workshop

Public Hearing

Department: Office of Financial Management and Budget

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve a stipulated settlement in the amount of \$11,000.00, in the case Clemente Rodriguez vs Palm Beach County Planning Zoning & Building Department, case number 502006SC015735XXXXMB, for the full satisfaction of a Code Enforcement Lien that was entered against Clemente & Nimia Rodriguez on June 1, 2005.

**Summary:** The Code Enforcement Special Master (CESM) entered an Order on April 6, 2005 giving Clemente & Nimia Rodriguez until April 21, 2005, to cease the outdoor storage of inoperable and/or unlicensed vehicles on the property. Compliance with the CESM's Order was not achieved by the ordered compliance date and a fine in the amount of \$50.00 per day was imposed. The CESM then entered a claim of lien against the Rodriguezes on June 1, 2005. The cited code violations were fully corrected as of March 30, 2006. The total accumulated lien amount through August 31, 2006, the month in which settlement discussions first began, totaled \$21,846.68, of which the Rodriguezes have agreed, pursuant to the court approved Stipulation of Settlement entered on February 15, 2007, to pay the County \$11,000.00 (50.4%) for full settlement of their outstanding Code Enforcement Lien. (District 3) (DO)

**Background and Policy Issues:** The initial violation that gave rise to this Code Enforcement case was for the outdoor storage of inoperable and/or unlicensed vehicles on the property. The Special Master gave the Rodriguezes until April 21, 2005, to obtain compliance or a fine of \$50.00 per day would begin to accrue. A follow-up inspection by Code Enforcement on April 27, 2005 confirmed that the property was still not in compliance. A code lien was then entered against the Rodriguezes on June 1, 2005. The Collections Section of OFMB was contacted by the Rodriguezes' attorney in August, 2006 to discuss a settlement of the outstanding code lien. The Collections Section of OFMB rejected their initial offer of \$5,000 and the Rodriguez filed suit seeking dismissal of the code lien. After entering into Court ordered mediation, a court approved stipulated settlement was entered into which calls for the Rodriguezes to pay the County \$11,000.00 in \$500.00 monthly installment payments beginning on April 15, 2007. In the event that the Rodriguezes default on their installment payments, the full amount of the lien, less any payments that have been made, will become due immediately.

(Continued on Page 3)

Attachments:

Recommended by: Richard Roberts 4/2/07  
Department Director Date

Approved by: [Signature] 4/2/07  
County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

<b>Fiscal Years</b>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
<b>Capital Expenditures</b>	_____	_____	_____	_____	_____
<b>Operating Costs</b>	_____	_____	_____	_____	_____
<b>External Revenues</b>	<u>(\$3,000.00)</u>	<u>(\$6,000.00)</u>	<u>(\$2,000.00)</u>	_____	_____
<b>Program Income (County)</b>	_____	_____	_____	_____	_____
<b>In-Kind Match (County)</b>	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u>(\$3,000.00)</u>	<u>(\$6,000.00)</u>	<u>(\$2,000.00)</u>	_____	_____

# ADDITIONAL FTE  
POSITIONS (Cumulative)

Is Item Included In Current Budget? Yes \_\_\_\_\_ No X  
Budget Account No.: Fund 0001 Department 600 Unit 6241 Object 5900

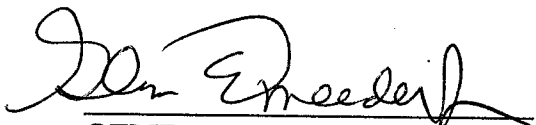
Reporting Category \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

**C. Departmental Fiscal Review:**

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

  
\_\_\_\_\_  
OFMB

N/A  
\_\_\_\_\_  
Contract Dev. and Control

**B. Legal Sufficiency:**

  
\_\_\_\_\_  
Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
Department Director

## Background and Policy Issues Continued

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The mitigating factors considered during our review and evaluation are as follows:

1. The Rodriguezes purchased the subject property in November 1995 and lived there for a few years before moving to New Jersey. When they moved, they kept the property as a rental property because they intend to move back to Florida in a few years. After they moved to New Jersey, they never changed their mailing address with the Property Appraiser's (P.A.) office and all notices from the County were mailed and delivered to the owners' address listed on the P.A.'s records.

As a result, the Rodriguezes alleged that they did not receive the Code Enforcement notices, Order, and lien issued by the County. It was not until the County's collection service provider received the lien in April 2006 and located the Rodriguezes at their home in New Jersey that they became aware of the code lien. Once they became aware of the Code Enforcement lien, they immediately contacted Code Enforcement and OFMB to attempt to have the lien issue resolved. After settlement discussions were unsuccessful, the Rodriguezes hired an attorney to represent them in this matter. Their attorney, after failing to get OFMB to support a minimal settlement offer, filed a suit against the County seeking to have the lien dismissed. The suit went before Judge Keyser on February 15, 2007 and both sides were ordered into mediation. A Stipulation And Order For Payment With Judgment Upon Default was entered in favor of the County and which provides for the Rodriguezes to pay the County a total of \$11,000.00 in equal monthly installments of \$500.00 beginning on April 15, 2007. In the event that they default on any of their required monthly settlement payments, the full amount of the County's Code lien, less any monies paid, will become due immediately. Board approval of the proposed \$11,000.00 code lien settlement is required as a condition of the court ordered stipulation.

2. When they were in Palm Beach County last Fall, the Rodriguezes changed the mailing address for the subject property with the Property Appraiser's office. This will ensure that all future County notices and information will be received by them so that they can address any future matters in a timely manner.
3. The gravity of the violations, together with the fact that there were no life/safety issues involved, warrants consideration of a reduction of their substantial lien amount.

An Affidavit of Compliance has been issued by Code Enforcement and states that the cited violations were fully corrected as of March 30, 2006 and that the property is in full compliance with the CESM's Order. Further, the cited violation did not involve any health/safety issues.

Settlement offers that reduce any debt amount due to Palm Beach County by more than \$2,500 require the approval of the Board of County Commissioners, per Countywide PPM# CW-F-048. This settlement offer exceeds the \$2,500 limit and requires Board approval.

In light of the above stated circumstances, Staff believes that the proposed settlement is fair and in the best interest of Palm Beach County.