

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: August 21, 2007

Consent Regular
 Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For:

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve settlement, inclusive of attorney's fees and costs, in the amount of \$25,000 in the case styled Ticor Title Insurance Company of Florida v. Palm Beach County, Case No. 502007CA001929XXXMB.

Summary: This case stems from two nuisance abatement liens totaling \$77,790.18, filed by the Building Division in 1998. The liens were not paid off despite the property having been twice sold. The current owner is insured by plaintiff, Ticor Title Insurance Company of Florida ("Ticor"). Ticor filed a declaratory action against the County to remove the two nuisance abatement liens from clouding the title. Approval of the settlement will result in the plaintiff dismissing its First Amended Complaint with prejudice and each side would bear its own attorneys' fees and costs. District 1 (PGE)

Background and Justification: In 1998 the County filed a code enforcement lien and two unsafe building/nuisance abatement liens on a homestead property. The property was first sold in July 2001 and the owner paid off the code enforcement lien, with the understanding that the buyer would pay off the two nuisance abatement liens. Although the nuisance abatement liens were not paid off by the buyer, the property was recently sold again to the current owner, who is insured by plaintiff, Ticor. Plaintiff filed suit seeking a declaration from the court that the liens are invalid because the building division failed to present them as an agenda item to the Board of County Commissioners prior to filing them in the public records in accordance with Palm Beach County Administrative Code Ordinance 92-17. The ordinance has since been amended and no longer requires BCC approval before the building division files its liens. Plaintiff further alleges in it First Amended Complaint that the liens are time barred under the statute of limitations. Although the statute of limitations issue is disputable, the other technical deficiency is problematic and therefore staff believes it is more efficient for the County to accept the offer to settle for \$25,000, then to expend the necessary resources required to defend the entire lawsuit. Approval of the settlement will result in the plaintiff dismissing its First Amended Complaint with prejudice and each side would bear its own fees and costs.

Recommended by: DMH Heman 7/19/07
County Attorney Date

Approved by: N/A _____
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	<u>(25,000)</u>	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(25,000)</u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes No

Budget Account No.: Fund 1400 Department 600 Unit 6107 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 Development and Control Comments:

cc 7/20/2007 *7/20/07* 7/20/07 OFMB *7-24-07* *7/19/11* *7/24/07*
7/24/07 Contract Development and Control

B. Legal Sufficiency:

Assistant County Attorney

C. Other Department Review:

Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.