

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: November 6, 2007 [X] Consent [] Regular
[] Public Hearing
Department
Submitted By: COUNTY ATTORNEY
Submitted For:

I. EXECUTIVE BRIEF

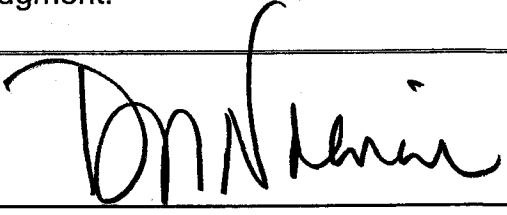
Motion and Title: Staff recommends motion to approve: a settlement in the amount of \$55,817, including attorney's fees and costs, in the eminent domain action styled Palm Beach County v. Maria Mink, et al., Case No. 502006CA010149XXXXMB, for the taking of parcels 102 and 302, owned by Christian Life Center of the Palm Beaches, Inc.

Summary: The County has negotiated a settlement in the amount of \$46,450, excluding attorney's fees and costs, subject to the approval of the Board of County Commissioners, for parcels 102 and 302, which includes compensation for the land taken and improvements thereon. The County previously deposited \$26,400 as its initial good faith deposit and estimate of value for the land taken and improvements. The proposed settlement is \$46,450 for the land taken and the improvements, excluding attorney's fees in the amount of \$6,616 and costs in the amount of \$2,750. The total settlement including attorney's fees and costs is \$55,817. If this settlement is approved, it would require the County to pay an additional \$29,417 to fully fund the settlement, inclusive of attorney's fees and costs. District 6 (PM)

Background and Justification: The County's initial good faith offer was \$26,400. The proposed settlement in the amount of \$46,450, as full and final compensation for the property, eliminates all risk of an adverse jury verdict and liability for additional costs and attorney's fees, which would exceed the proposed settlement. The total proposed settlement, excluding attorney's fees and costs, is \$46,450, and was approved by the Engineering Department. Therefore, in order to minimize the County's exposure and substantial additional costs and attorney's fees, this settlement is recommended and very favorable to the County.

Attachments:

1. Stipulated Final Judgment.

Recommended by:  10/15/07
County Attorney Date

Approved by: N/A
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	<u>\$29,417</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>\$29,417</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

ADDITIONAL FTE

POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes X No

Budget Acct No.: Fund 3503 Dept. 361 Unit 0725 Object 6120
Program

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

Road Impact Fee Fund - Zone 3

Seminole Pratt/SR 80 to S of Okeechobee Blvd

Land & Improvements-Parcels 102 & 302	\$46,450.00
Attorneys Fees	\$ 6,616.00
Additional Costs	\$ 2,751.00
Settlement Amount	\$55,817.00
Less Previous Deposits-Court Registry	<\$26,400.00>
Fiscal Impact	\$29,417.00

C. Departmental Fiscal Review: Admitted for R. Ward

III. REVIEW COMMENTS

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

OFMB
10/17/07
10/17/07
10/17/07
10/16/07

Contract Dev. and Control
10/18/07 At the time of CDC's review, the Settlement Agreement was not executed.

B. Approved as to Form and Legal Sufficiency:

Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT IN AND FOR PALM
BEACH COUNTY, FLORIDA

PALM BEACH COUNTY, a political
subdivision of the State of Florida,

CASE NO: 502006CA010149XXXMB
DIVISION: AG

Petitioner,

PARCELS: 102 and 302

v.

MARIA MINK, as Trustee of the Maria
Mink Living Trust Agreement Dated
July 27, 1998, et al.

Respondents.

**STIPULATED FINAL JUDGMENT AS TO PARCELS 102 AND 302 OWNED
BY CHRISTIAN LIFE CENTER OF THE PALM BEACHES, INC.**

THIS CAUSE having come before the Court on the Joint Motion by Petitioner, Palm Beach County, by and through its undersigned Assistant County Attorney, and William P. Doney, Esquire, Attorney for the Respondent, Christian Life Center of the Palm Beaches, Inc., and the Court being fully advised in the premises, hereby finds and decides as follows:

1. The Court has jurisdiction over the subject matter of, and the parties to this cause.

2. Respondent, Christian Life Center of the Palm Beaches, shall have and recover the sum of **FORTY-SIX THOUSAND FOUR HUNDRED FIFTY DOLLARS AND 50/100 CENTS(\$46,450.50)**, as full, just and final compensation for the taking of Parcels 102 and 302, excluding costs and attorneys fees, which shall be calculated based on benefits achieved basis pursuant to Florida law. There are no taxes due on Parcels 102 and 302.

3. The sum of TWENTY-SIX THOUSAND FOUR HUNDRED DOLLARS AND 00/100 (\$26,400.00) having been previously deposited by Petitioner into the Registry of the Court pursuant to the Order of Taking entered on January 12, 2007, and having been previously withdrawn by the Respondent, Petitioner shall receive a credit in the sum of \$26,400.00 toward the full compensation set forth in paragraph 2 above.

4. Petitioner, Palm Beach County, shall within thirty days (30) days from the date of the entry of this Stipulated Final Judgment, issue a check in the amount of **TWENTY THOUSAND FIFTY DOLLARS AND 50/100 (\$20,050.50)**, made payable to **VANCE, DONEY & MACGIBBON, P.A., TRUST ACCOUNT**, and mail same to William P. Doney, Esquire, 1665 Palm Beach Lakes Blvd., Suite 610, West Palm Beach, Florida, 33401, representing the difference between the agreed upon compensation referenced in paragraph two and the amount previously deposited into the Registry of the Court for Parcels 102 and 302. Respondent's counsel shall be responsible to make the appropriate disbursements.

5. Respondent, Christian Life Center of the Palm Beaches, Inc., shall also have and recover from Petitioner statutory attorney's fees in the amount of \$6,616.50 and costs in the amount of \$2,750.50. Accordingly, Petitioner, Palm Beach County, shall within thirty days (30) days from the date of the entry of this Stipulated Final Judgment, issue a check in the amount of **NINE THOUSAND THREE HUNDRED SIXTY-SEVEN DOLLARS AND 00/100 (\$9,367.00)** payable to **VANCE, DONEY & MACGIBBON, P.A., TRUST ACCOUNT**, and mail same to William P. Doney, Esquire, 1665 Palm Beach Lakes Blvd., Suite 610, West Palm Beach, Florida, 33401, without further Order of this court.

6. Title to Parcels 102 and 302, as further described in **Exhibit "A"** attached hereto, which vested in the Petitioner pursuant to the Order of Taking and deposits previously made is hereby approved, ratified and confirmed.

7. The sums paid to the Respondent, Christian Life Center of the Palm Beaches, Inc., represents full and final compensation for the taking of Parcels 102 and 302, and the Respondent will not seek any further monies from the Petitioner in this cause, except as specifically set forth herein.

8. The Court reserves jurisdiction to enforce the terms of this judgment, over supplemental proceedings, if any, pursuant to Florida law.

DONE AND ORDERED in chambers this ____ day of September, 2007 in West Palm Beach, Palm Beach County, Florida.

Honorable John J. Hoy
Circuit Judge

Copies furnished to the parties listed below

JOINT MOTION

Petitioner, Palm Beach County, and William P. Doney, Esquire, Attorney for the Respondent, Christian Life Center of the Palm Beaches, Inc., hereby stipulate that they have resolved this case as described above, and move this Court for entry of the foregoing Stipulated Final Judgment.

PHILIP MUGAVERO, ESQ.
Assistant County Attorney
301 N. Olive Avenue, Suite 601
West Palm Beach, FL 33401-4791

WILLIAM P. DONEY, ESQ.
Vance, Doney & MacGibbon, P.A.
1665 Palm Beach Lakes Blvd., Suite 610
West Palm Beach, Florida 33401

By: Philip Mugavero
Fla. Bar No. 931179

By: William P. Doney
Fla. Bar No. 237086

EXHIBIT "A"
SHEET 1 OF 2

A PORTION OF TRACT 13, ACCORDING TO THE MAP OF ENTRADA ACRES, AN UNRECORDED SUBDIVISION IN SECTION 36, TOWNSHIP 43 SOUTH, RANGE 40 EAST, PALM BEACH COUNTY, FLORIDA, AS SAID TRACT IS SHOWN ON SAID SUBDIVISION RECORDED IN OFFICIAL RECORDS BOOK 2831, PAGES 239 AND 240, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER (N 1/4) CORNER OF SAID SECTION 36; THENCE NORTH 88°50'02" WEST ALONG THE NORTH LINE OF SAID SECTION 36 A DISTANCE OF 1026.60 FEET TO THE EXISTING EAST RIGHT OF WAY LINE OF SEMINOLE-PRATT WHITNEY ROAD AS SHOWN ON ROAD PLAT BOOK 4 AT PAGES 34 THROUGH 40 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 01°32'25" WEST ALONG SAID EXISTING EAST RIGHT OF WAY LINE OF SEMINOLE-PRATT WHITNEY ROAD A DISTANCE OF 2711.62 FEET TO ITS INTERSECTION WITH THE CENTERLINE OF REMBRANDT BLVD. AS SHOWN ON SAID MAP OF ENTRADA ACRES AND THE POINT OF BEGINNING;

THENCE SOUTH 88°27'35" EAST ALONG SAID CENTERLINE OF REMBRANDT BLVD. A DISTANCE OF 35.00 FEET; THENCE NORTH 01°32'25" EAST A DISTANCE OF 30.00 FEET; THENCE NORTH 43°27'35" WEST A DISTANCE OF 35.36 FEET; NORTH 01°32'25" EAST ALONG A LINE 10 FEET EAST OF AND PARALLEL WITH (AS MEASURED AT RIGHT ANGLES TO) SAID EXISTING EAST RIGHT OF WAY OF SEMINOLE-PRATT WHITNEY ROAD A DISTANCE OF 488.36 FEET TO THE NORTH BOUNDARY OF SAID TRACT 13; THENCE NORTH 88°27'35" WEST ALONG SAID NORTH BOUNDARY A DISTANCE OF 10.00 FEET; THENCE SOUTH 01°32'25" WEST ALONG SAID EXISTING EAST RIGHT OF WAY OF SEMINOLE-PRATT WHITNEY ROAD A DISTANCE OF 543.36 FEET TO THE POINT OF BEGINNING.

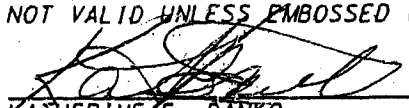
SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA AND CONTAIN 6496 SQUARE FEET, MORE OR LESS.

BEARINGS SHOWN HEREON ARE RELATIVE TO THE NATIONAL OCEAN SERVICE, TRANSVERSE MERCATOR COORDINATES, FLORIDA EAST ZONE, NORTH AMERICAN DATUM (NAD) OF 1983 (1990 ADJUSTMENT) THE GRID BEARING BEING NORTH 01°32'25" EAST ALONG THE CENTERLINE OF SEMINOLE-PRATT WHITNEY ROAD.

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE ATTACHED SKETCH AND THE ABOVE LEGAL DESCRIPTION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THE ATTACHED SKETCH AND ABOVE LEGAL DESCRIPTION MEET THE INTENT OF THE MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS PURSUANT TO SECTION 472.027, FLORIDA STATUTES AND ADOPTED IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, EFFECTIVE SEPTEMBER 1, 1981.

NOT VALID UNLESS EMBOSSED WITH SURVEYORS SEAL.


KATHERINE E. BANKO
PROFESSIONAL SURVEYOR AND MAPPER
NO. 5503, STATE OF FLORIDA
LB NO. 7334

PROJECT NO. 1997511A
SEMINOLE-PRATT
WHITNEY ROAD
RIGHT OF WAY ACQUISITION



EXHIBIT

A

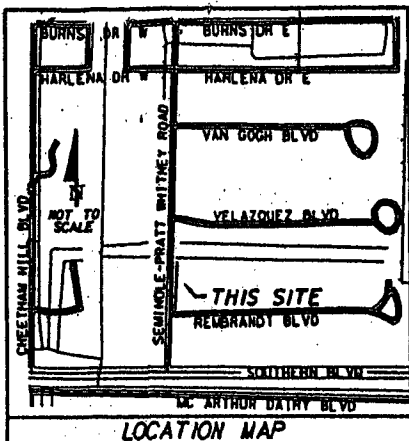
LEGAL DESCRIPTION
PARCEL NO. 102

CRES No. 00107 REV. 08/31/05 09/26/05 1 OF 2

EXHIBIT "A" SHEET 2 OF 2

POC
N¹/₄CORNER
SEC. 36-43-40

0 20 40 60 80 100
SCALE: 1" = 100'



SEMINOLE-PRATT WHITNEY ROAD

BASELINE
S 01° 32' 25" W
N 01° 32' 25" E
E. R/W LINE
543.36' E. R/W LINE
488.36'

N. LINE SEC. 36-43-40
N88°50'02"W 1026.60'

22+64.35
50.00' RT
N 88° 27' 35" W
10.00'

NORTH BOUNDARY TRACT 13

TRACT 13
O.R.B. 02948, PG. 0465
THE MAP OF ENTRADA ACRES,
AN UNRECORDED SUBDIVISION
SECTION 36-43-40
O.R.B. 2831, PGS. 239-240
PALM BEACH COUNTY, FLORIDA

17+75.99
60.00' RT
N 43° 27' 35" W
35.36'

17+50.99
85.00' RT
N 01° 32' 25" E
30.00'

REMBRANDT BLVD.

S 88° 27' 35" E
60' I/E & U.E. (EA)

17+20.99
85.00' RT
S 88° 27' 35" E
35.00'

POB
17+20.99
50.00' RT

- LEGEND:
- (EA) : CENTERLINE DATA FROM ENTRADA ACRES, AN UNRECORDED SUBDIVISION
 - I/E.B. : INGRESS/EGRESS AND UTILITY EASEMENT
 - O.R.B. : OFFICIAL RECORD BOOK
 - P.B. : PLAT BOOK
 - PGS. : PAGES
 - POB : POINT OF BEGINNING
 - POC : POINT OF COMMENCEMENT
 - R/W : RIGHT OF WAY
 - STA. : STATION

THIS IS NOT A SURVEY

STATIONING PER RD. P.B. 4, PGS. 34-40,
PUBLIC RECORDS OF PALM BEACH COUNTY RECORDS

PROJECT NO. 1997511A
SEMINOLE-PRATT
WHITNEY ROAD
RIGHT OF WAY ACQUISITION

CROSSROADS
ENGINEERING & SURVEYING
An Erdman Anthony Company
1402 ROYAL PALM BEACH BLVD., BLDG 500
ROYAL PALM BEACH, FLORIDA 33411
PH 561-753-9723 FAX 561-753-9724 EB-25912 LB-7334

SKETCH OF
PARCEL NO. 102

CRES No. 00107	REV. 09/26/05	07/08/05	2 OF 2
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THENCE NORTH 43°27'35" WEST A DISTANCE OF 8.49 FEET; THENCE NORTH 01°32'25" EAST ALONG A LINE 10 FEET EAST OF AND PARALLEL WITH (AS MEASURED AT RIGHT ANGLES TO) SAID EAST RIGHT OF WAY LINE A DISTANCE OF 488.36 FEET TO THE NORTH BOUNDARY OF SAID TRACT 13; THENCE SOUTH 88°27'35" EAST ALONG SAID NORTH BOUNDARY OF SAID TRACT 13 A DISTANCE OF 6.00 FEET; THENCE SOUTH 01°32'25" WEST ALONG SAID LINE 16 FEET EAST OF AND PARALLEL WITH (AS MEASURED AT RIGHT ANGLES TO) SAID EAST RIGHT OF WAY LINE A DISTANCE OF 494.36 FEET TO THE POINT OF BEGINNING.

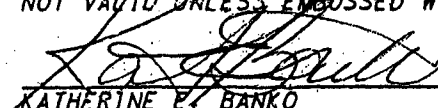
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KATHERINE E. BANKO
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NO. 5503, STATE OF FLORIDA
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PROJECT NO. 1997511A
SEMINOLE-PRATT
WHITNEY ROAD
TEMPORARY CONSTRUCTION
EASEMENT

 **CrossROADS**
ENGINEERING & SURVEYING
An Erdman Anthony Company
1402 ROYAL PALM BEACH BLVD., BLDG 500
ROYAL PALM BEACH, FLORIDA 33411
PH 561-753-9723 FAX 561-753-9724 EB-25912 LB-7334

LEGAL DESCRIPTION
PARCEL NO. 302

CRES No. 00107

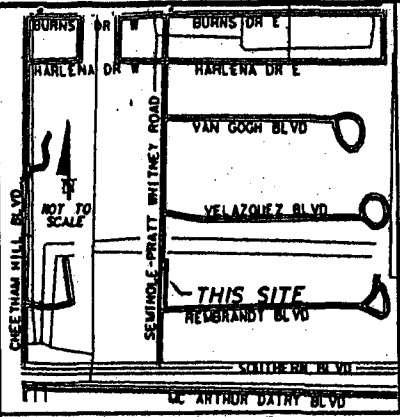
09/26/05

1 OF 2

EXHIBIT "A" SHEET 2 OF 2

POC
N¹/₄ CORNER
SEC. 36-43-40

0 20 40 60 80 100
SCALE: 1" = 100'



LOCATION MAP

SEMINOLE-PRATT WHITNEY ROAD

BASELINE
N 01° 32' 25" E
100' R/W PER RD. P.B. 4, PGS. 34-40

N. LINE SEC. 36-43-40
N88°50'02"W 1026.60'
S 88° 27' 35" E
6.00'

NORTH BOUNDARY TRACT 13

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PALM BEACH COUNTY, FLORIDA

17.75.99
60.00' RT
N 43° 27' 35" W
8.49'

POB
17.69.99
66.00' RT

- LEGEND:
- (EA) : CENTERLINE DATA FROM ENTRADA ACRES, AN UNRECORDED SUBDIVISION
 - 1/E & U.E. : INGRESS/EGRESS AND UTILITY EASEMENT
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 - POB : POINT OF BEGINNING
 - POC : POINT OF COMMENCEMENT
 - R/W : RIGHT OF WAY
 - STA. : STATION

(102) : PARCEL NUMBER

REMBRANDT BLVD.

S 88° 27' 35" E
60' 1/E & U.E. (EA)
N 01° 32' 25" E
49.00'
S 88° 27' 35" E
16.00'

THIS IS NOT A SURVEY

STATIONING PER RD. P.B. 4, PGS. 34-40.
PUBLIC RECORDS OF PALM BEACH COUNTY RECORDS

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SKETCH OF
PARCEL NO. 302

CRES No. 00107	09/26/05	2 OF 2
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