

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

3G-2

AGENDA ITEM SUMMARY

Meeting Date: June 17, 2008

Consent
 Workshop

Regular
 Public Hearing

Department: Office of Financial Management and Budget

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve; a negotiated settlement offer in the amount of \$20,000.00 for the full satisfaction of a Code Enforcement Lien that was entered against Harville Properties Inc. on November 1, 2000.

Summary: The Code Enforcement Special Master (CESM) entered an Order on August 2, 2000 giving Harville Properties Inc. until September 16, 2000 to obtain a special permit from the Zoning Division for the existing mobile home on the property or remove it. Compliance with the CESM's Order was not achieved by the ordered compliance date and a fine in the amount of \$100.00 per day was imposed. The CESM then entered a claim of lien against Harville Properties Inc. on November 1, 2000. The cited code violations were fully corrected as of February 8, 2002. The total accumulated lien amount through March 3, 2005, the date settlement discussions first began, totaled \$82,495.00, of which Mr. Harville has agreed to pay the County \$20,000.00 (24.2%) for full settlement of his company's outstanding Code Enforcement Lien. (District 6) (PGE)

Background and Policy Issues: The initial violation that gave rise to this code enforcement case was an existing mobile home that was on the property in violation of a condition of approval of Zoning Petition No. DRC 99-010 requiring the petitioner to obtain a special permit from the Zoning Division for the existing mobile home or remove it from the property. The Special Master gave Harville Properties Inc. until September 16, 2000 to obtain compliance or a fine of \$100.00 per day would begin to accrue. A follow-up inspection by Code Enforcement on October 6, 2000 confirmed that the property was still not in compliance. A code lien was then entered against Harville Properties Inc. on November 1, 2000. The Collections Section of OFMB was contacted by Mr. Harville, the owner of Harville Properties, Inc., a couple of years ago and settlement discussions on his outstanding code lien have been on-going. The Collections Section of OFMB, after careful review, evaluation, and lengthy discussions, agreed to present the proposed settlement offer in the amount of \$20,000.00 to the Board for approval.

(Continued on Page 3)


Attachments:

Recommended by:


Department Director

6/11/08
Date

Approved by:


County Administrator

6/12/08
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	<u>(\$17,500)*</u>	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(\$17,500)*</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 _____


* Note: The amount listed above is net of the \$2,500 partial payment which was received on March 2, 2004 for application towards the code lien.

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 *DK* *CC* *von*
 6/11/08 *6/11/08* *06/11*

 N/A
 Contract Dev. and Control

B. Legal Sufficiency:

 Assistant County Attorney

C. Other Department Review:

 N/A
 Department Director

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

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

1. In early 1999, Williams Communications entered into a lease agreement with Harville Properties to lease a small portion of their land for an unmanned fiber optic facility. Since the land was zoned for agriculture, DRC approval to allow for the small fiber optic facility was required. Zoning Petition No. DRC 99-010 was submitted on March 10, 1999 and was subsequently approved. One of the conditions of approval was for the existing mobile home to obtain a special permit from the Zoning Division prior to September 10, 1999 or remove the mobile home from the property. When Mr. Harville, a local area farmer and president of Harville Properties, received the Code Enforcement Order and lien, he went to visit the caretaker who had been residing in the trailer on the property for several years. Williams Communication, under their lease agreement, was responsible for making sure that all of the zoning conditions of approval were resolved. When the caretaker showed Mr. Harville the mobile home registration renewal and sticker from the Tax Collector's office, he assumed, and wrongly so, that those documents were the required County special permits and that the matter was resolved. While in the process of selling one of his other properties in the city of Belle Glade in early 2004, the code lien surfaced and Mr. Harville then came to the Collections Section to discuss the matter. The Collections Section worked with Mr. Harville allowing him to complete the sale of a non-violations property. After that transaction in which the County received \$2,500 for application toward the outstanding code lien, a meeting was convened in March 2005 with Mr. Harville and Williams Communication to discuss the substantial outstanding code lien. Williams Communication was in the process of accepting responsibility for not addressing this specific condition of approval and the lien that was placed against Harville property and had begun to negotiate with the County's Collections Section when they filed for bankruptcy in 2005. They were never able to reorganize and have since gone out of business leaving Mr. Harville with no legal remedies available to him to recoup any of the code lien amount from Williams Communication. In the end, Williams Communication ended up owing Harville Properties for its unpaid lease payments. Since this lien is preventing Mr. Harville and Harville Properties from obtaining new financing which he needs, he has agreed to settle this lien for an aggregate total of \$20,000 of which \$2,500 was received by the County on March 2, 2004.
2. The trailer, which was to have been removed or permitted by September 10, 1999 and for which a code lien began accruing on September 16, 2000, was removed from the property around the time code enforcement was called out to the property to inspect one of the Communications buildings which had just sustained very heavy fire damage. Code Enforcement was able to confirm that the trailer was no longer on the property as of February 8, 2002 and an affidavit of compliance was issued.

An Affidavit of Compliance has been issued by Code Enforcement and states that the cited violations were corrected as of February 8, 2002 and that the property is in full compliance with the CESM's Order. Further, the cited violation did not involve any health or life/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.