

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: 9/9/08 [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 \$161,430.11 including attorney's fees, but excluding costs, in the eminent domain action styled Palm Beach County v. Abdul Maleque, et al., Case No. 502007CA001804XXXMB, for the taking of parcels 109, 209 and 309, owned by Abdul Maleque and Sabina Maleque.

Summary: The County has negotiated a settlement for parcels 109, 209 and 309 in the amount of \$161,430.11 as compensation for the land taken, including attorney's fees, but excluding costs, subject to the approval of the Board of County Commissioners. The subject property is located on the corner of Seminole Pratt Whitney Road and Okeechobee Boulevard. In his appraisal update, the County's expert appraiser valued the subject parcels at \$117,331 with a valuation date of July 7, 2006. The property owner's expert appraiser valued the subject parcels at \$172,900 for the land taken. The proposed settlement is \$132,500 for the land taken, plus attorney's fees in the amount of \$28,930.11, calculated mathematically pursuant to Florida law. The total settlement including attorney's fees, but excluding costs, is \$161,430.11. If this settlement is approved, it would require the County to pay an additional \$116,597.11 to fully fund the settlement, excluding costs. District 6 (PM)

Background and Justification: The County's expert appraiser and the owner's expert appraiser valued the subject property with a highest and best use as commercial. The owner's appraiser and the County's appraiser used fairly similar comparable sales in arriving at their respective opinions of value. The least comparable sales from both appraisers were at the high and low ends of the sales spectrum. Therefore, by disregarding these sales the compromise value of \$132,500 was reached with the concurrence of the County's appraiser and the Engineering Department. The compromise value is considerably closer to the County's appraised value than the property owner's. **(Continued on Page 3)**

Attachments:

- 1. Stipulated Final Judgment.
- 2. Budget Availability Statement.

Recommended by: DMN Keman 7/31/08
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	\$141,767	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$141,767	-0-	-0-	-0-	-0-

ADDITIONAL FTE
POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes X No
Budget Acct No.: Fund 3503 Dept. 361 Unit 0699 Object 6120.
Program

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

Road Impact Fee Fund - Zone 3
Seminole Pratt/S of Okeechobee to N of Sycamore

Total of Settlement Inc Attorney's Fees	\$186,430.00
Clerk of the Court's Fees	\$ 170.00
Total	\$186,600.00
Less Previous Deposits - Court Registry	<\$ 44,833.00>
Fiscal Impact	\$141,767.00

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments: \$25,000 has been added to the \$161,430.11 to cover any additional costs associated with the acquisition. This sum of \$186,430 is the Total of Settlement including Attorney's Fees listed above.

Stwillhite 8/4/08
OFMB
60.8/01

John J. Jewett
Contract Dev. and Control
JMB

B. Approved as to Form and Legal Sufficiency:
[Signature]
Assistant County Attorney

C. Other Department Review:

Department Director

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

Background and Justification (continued):

The proposed settlement in the amount of \$161,430.11 is full and final compensation for the property taken, eliminates all risk of an adverse jury verdict and liability for additional costs and attorney's fees. 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.

IN THE CIRCUIT
FIFTEENTH JUDICIAL CIRCUIT OF
FLORIDA, IN AND FOR PALM BEACH
COUNTY.

CASE NO: 502007CA001804XXXXMBAE

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

Petitioner,

v.

PARCELS 109/209/309

ABDUL MALEQUE and SABINA
MALEQUE, his wife,

Respondents.

STIPULATED FINAL JUDGMENT

This cause having come before the Court upon the Joint Motion set forth below and the Court being fully advised in the premises, it is therefore

ORDERED AND ADJUDGED as follows:

1. Respondents, ABDUL MALEQUE and SABINA MALEQUE, shall have and recover from Petitioner, PALM BEACH COUNTY, the sum of \$132,500.00 in full payment for the taking of Parcels 109/209/309, including damages arising therefrom, if any. Respondents shall recover the sum of \$28,930.11 for attorney's fees.

2. The Petitioner, having previously deposited the sum of \$44,833.00 into the Registry of this Court, shall, within thirty (30) days of receipt of a certified copy of this Stipulated Final Judgment, and without further order of this Court, issue a check in the amount of \$116,597.11 payable to Jones, Foster, Johnston & Stubbs, P.A., Trust Account, and mail said check to H. Adams Weaver, Esquire, P. O. Box 3475, West

Palm Beach, Florida 33402, for appropriate disbursement of the settlement amount and attorney's fees.

3. The vesting of title to Petitioner as to Parcels 109/209/309 is hereby approved, ratified and confirmed.

4. The Court reserves jurisdiction to tax reasonable costs against Petitioner.

DONE AND ORDERED at Palm Beach County, Florida, this _____ day of June, 2008.

CIRCUIT COURT

Copies furnished to below listed counsel.

JOINT MOTION

Petitioner, PALM BEACH COUNTY and Respondents, ABDUL MALEQUE and SABINA MALEQUE, move together for entry of the Stipulated Final Judgment set forth above and state that they are authorized to enter into this Joint Motion.

AGREED to this 20 day of June, 2008.

PALM BEACH COUNTY
ATTORNEY'S OFFICE
Attorney for Petitioner
300 North Dixie Highway
Third Floor
West Palm Beach, FL 33401
(561) 355-6717

By


PHILIP MUGAVERO
FLORIDA BAR NO: 931179

JONES FOSTER JOHNSTON
& STUBBS, P.A.
Attorney for Respondents
505 South Flagler Drive
Suite 1100
West Palm Beach, FL 33402
(561) 659-3000

By


H. ADAMS WEAVER
FLORIDA BAR NO: 125210

**INTEROFFICE COMMUNICATION
PALM BEACH COUNTY
BUDGET AVAILABILITY STATEMENT**

DATE: July 30, 2008

TO: Phil Mugavero, Assistant County Attorney
County Attorney's Office

FROM: Richard Farquhar, Director *Aug*
Administrative Services

RE: Seminole Pratt/S of Okeechobee to N of Sycamore
Project # 1997511B
PBC vs Abdul Maleque, et al
Case No. 502007CA001804XXXXMB
Eminent Domain Settlement
Parcels 109, 209 & 309 \$186,430.00

BOARD MEETING DATE: August 19, 2008

FISCAL IMPACT LOCATION: F:\COMMON\WP\AgendaPage2\ 00417a

FUNDING STATUS: FULLY FUNDED

Is Item Included in Current Budget? Yes X No

Budget Account No:

Fund 3503 Dept 361 Unit 0699 Object 6120

Recommended Sources of Funds/Summary of Fiscal Impact:

Road Impact Fee Fund - Zone 3

Seminole Pratt/S of Okeechobee to N of Sycamore

Total of Settlement Inc Attorney's Fees	\$186,430.00
Clerk of the Court's Fees	\$ 170.00
Total	<u>\$186,600.00</u>
Less Previous Deposits - Court Registry	<u><\$ 44,833.00></u>
Fiscal Impact	<u>\$141,767.00</u>

This BAS is valid for up to ninety days from its date of issuance.
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