

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

3G-1

AGENDA ITEM SUMMARY

Meeting Date: November 18, 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 \$95,000 for the full satisfaction of two (2) Code Enforcement Liens that were entered against Rogelio Vera on October 1, 2003 and December 3, 2003, respectively.

**Summary:** The Code Enforcement Special Master (CESM) entered two (2) Orders on February 5, 2003 giving Rogelio Vera until August 2, 2003 to cease operating a trucking service, equipment storage yard and/or other industrial uses not permitted in an AR zoning district and installing a parking lot without proper permits on his two (2) adjoining properties in an AR zoning district. Compliance with the CESM's Orders was not achieved by the ordered compliance date and a fine in the amount of \$250 per day on each individual parcel was imposed. The CESM then entered two (2) claims of liens against Mr. Vera on October 1, 2003 and December 3, 2003. The cited code violations were fully corrected as of April 17, 2006. The total accumulated aggregate liens' amount through September 30, 2006, the month settlement discussions began, totaled \$656,263.32, of which Mr. Vera has agreed to pay the County \$95,000 (14.5%) for full settlement of his two (2) outstanding Code Enforcement Liens. The proposed settlement amount, if approved, is to be paid in full by no later than January 30, 2009. Failure to remit full payment by that date will result in the two (2) liens reverting back to their current updated accrued value. (District 6) (PGE)

**Background and Policy Issues:** The initial violations that gave rise to the two (2) Code Enforcement cases were for operating a trucking service on properties zoned AR (Agricultural/Residential) and for the installation of a gravel parking lot on both parcels without proper permits. The Special Master gave Mr. Vera until August 2, 2003 to obtain compliance or a fine of \$250 per day would begin to accrue on each case and against each parcel individually. A follow-up inspection by Code Enforcement on August 5, 2003 confirmed that the properties were still not in compliance. Code liens were then entered against Mr. Vera on October 1, 2003 and December 3, 2003, respectively. The Collections Section of OFMB has been in settlement discussions with Mr. Vera, his attorney, and his representative, since September 2006. The Collections Section of OFMB, after careful review, evaluation, lengthy discussions, and several meetings, one of which the district Commissioner was in attendance, agreed to present the proposed settlement offer in the amount of \$95,000 to the Board for approval. The proposed settlement amount, if approved, is to be paid in full by no later than January 30, 2009. Failure to remit full payment by that date will result in the two liens reverting back to their current updated accrued value.

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**Attachments:**

Recommended by: Elizabeth Brees 10/30/08  
Department Director Date

Approved by: [Signature] 11/5/08  
County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

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

<b>Fiscal Years</b>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
<b>Capital Expenditures</b>	_____	_____	_____	_____	_____
<b>Operating Costs</b>	_____	_____	_____	_____	_____
<b>External Revenues</b>	<u>(\$95,000)</u>	_____	_____	_____	_____
<b>Program Income (County)</b>	_____	_____	_____	_____	_____
<b>In-Kind Match (County)</b>	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u>(\$95,000)</u>	_____	_____	_____	_____

**# ADDITIONAL FTE  
POSITIONS (Cumulative)**

**Is Item Included In Current Budget?**    Yes     No   
**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:**

<u>JEM Richard Lawrence</u> 10/30/08 <b>OFMB</b>	<u>N/A</u> <b>Contract Dev. and Control</b>
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**B. Legal Sufficiency:**

Camela E. Edlitz  
**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. The surrounding properties in the area have gone through the rezoning process to receive commercial and light industrial classification and operate businesses on same. Mr. Vera's two (2) parcels, together with Mr. Sanfiel's, an owner across the street who owns one (1) parcel, still have the AR classification on their parcels. Mr. Sanfiel, who also has two (2) code liens for two (2) separate violations on one (1) parcel, is currently moving forward to get his property rezoned. Mr. Vera has been looking into rezoning but does not have the funds to go through the process. Further, the zoning and engineering requirements would leave only about one-half of the parcels available for use due to drainage and setback requirements. This issue has been a significant obstacle in trying to find a buyer for the two (2) parcels.
2. The subject properties have a \$140,000 mortgage on them, which is senior to the County's code liens. The mortgage has been in default several times and Mr. Vera has been able to work with the lender to stave off foreclosure. Further, there are delinquent taxes that are due for the past three (3) years in the amount of \$6,436.20 and for which a tax deed application has been submitted to the Tax Collector.
3. The Property Appraiser lists the combined market value of the two parcels at \$356,409. Their value, using the "Best and highest use valuation standard," uses vacant industrial as the highest use although the properties do not have the required zoning change for that usage. If Mr. Vera or a subsequent owner is successful in obtaining the rezoning reclassification, the market value of the properties could increase significantly. However, that would be dependent upon getting the zoning changed and how much usable land would be left after the zoning conditions have been achieved.
4. If a Unity of Title had been done when the two (2) properties were purchased, there may have been only one Code Enforcement case and lien. However, since they are two (2) separate lots, they were treated as individual parcels and, therefore, two individual code cases and liens resulted. Had there been only one (1) case, the accrued lien amount through September 30, 2006 would have totaled \$328,131.66. Further, one warranty deed was executed for both parcels as they were both previously owned by the same individual.
5. The gravity of the violations, together with the fact that there were no life/safety issues involved, warrants consideration of a reduction of his substantial lien amount.

An Affidavit of Compliance has been issued by Code Enforcement and states that the cited violations were corrected as of April 17, 2006 and that the properties are in full compliance with the CESM's Order. Further, the cited violations 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.