

36-1

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: April 16, 2013

☒ **Consent**

☐ **Regular**

☐ **Workshop**

☐ **Public Hearing**

Department: Office of Financial Management and Budget

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a negotiated settlement in the amount of \$125,000.00, for the full satisfaction of four (4) Code Enforcement Liens that were entered against FRB One, LLC on June 4, 2008, August 26, 2008, October 1, 2008 and April 7, 2010.

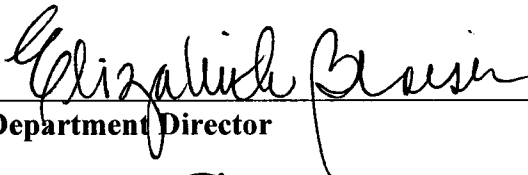
Summary: The Code Enforcement Special Magistrate (CESM) entered three (3) separate Orders resulting in four (4) Code Liens against FRB One, LLC. The Orders gave FRB One, LLC certain dates to achieve compliance with building code and zoning violations or daily fines ranging from \$100.00 to \$250.00 per day would begin accruing if compliance with the CESM's Orders were not achieved by the ordered compliance dates. The CESM then entered claims of liens against FRB One, LLC on June 4, 2008, August 26, 2008, October 1, 2008 and April 7, 2010, as the violations had not been corrected by the ordered dates in each of the respective cases. The cited code violations were all fully corrected as of July 6, 2010. The total accumulated and aggregate lien amounts through January 31, 2013 totaled \$563,055.49 for which FRB One, LLC has agreed to pay the County \$125,000.00 (22.2%) for full settlement of their four (4) outstanding Code Enforcement Liens. District 3 (PM).

Background and Policy Issues: The initial violations that gave rise to the Code Enforcement cases were construction renovation work done to the existing building without the required building permits and/or zoning approval and the continued and on-going operation of a commercial use on the property located adjacent to a residential district between the hours of 11:00 p.m. and 6:00 a.m. in violation of the Palm Beach County ULDC. The Special Magistrate gave specific dates for compliance to be achieved or fines ranging from \$100.00 to \$250.00 per day would begin to accrue. Multiple follow-up inspections by Code Enforcement confirmed that the property was still not in compliance with obtaining the required building permits and the continued violation of the business hours of operation when located adjacent to a residential district. Four (4) code liens were subsequently entered against FRB One, LLC on June 4, 2008, August 26, 2008, October 1, 2008 and April 7, 2010. The Collections section of OFMB was contacted several times by FRB One, LLC to discuss settlement of the significant outstanding code liens and the owners have finally been able to find a buyer for the neglected commercial property. The Collections section of OFMB, after careful review, evaluation, and several discussions, agreed to present the proposed settlement offer in the amount of \$125,000.00 to the Board for approval with the condition that the subject property is brought into an approved and operational business use in conformity with the current zoning requirements for the property within 180 days of acquisition.

(continued on page 3)

Attachments:

Recommended by:


Department Director


Date

4/3/13

Approved by:


County Administrator


Date

4/10/13

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	<u>(\$125,000)</u>	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(\$125,000)</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 _____

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:

Dem N/A 4/13/2013
OFMB Contract Dev. and Control
RA 4/3/13 pm 4-3-13

B. Legal Sufficiency:

Philipp Magarano
Assistant County Attorney

C. Other Department Review:

N/A
Department Director

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

Background and Policy Issues Continued (FRB One, LLC)

1. The violations which resulted in the four (4) liens being placed against FRB One, LLC were all caused by the former tenant. The owners believed the tenant when he told them he was addressing the code violations and would take care of all violations. That did not happen as the tenant would address one violation then create another violation. The main violation that resulted in the most significant lien was the operating of the business (f/k/a El Toro Loco) beyond the hours of 11:00 p.m. adjacent to a residential district. Although the property had been zoned and operated as a restaurant in the past which closed prior to 11:00 p.m., the new tenant turned it into a nightclub which stayed open until 5:00 a.m. The tenant and property owners, at the time, were also working with the Village of Palm Springs to have the property annexed into the Village and had been told that a nightclub would be allowed on the property and that the annexation was imminent. That never occurred as the residential community behind the business did not want to be annexed into the Village. When it became apparent that annexation was not going to happen, the tenant knew that he would have to shut down prior to 11:00 p.m. and the extended hours would never be permitted by the County. The tenant then decided to move out and close this location which was confirmed on July 6, 2010.
2. When the tenant vacated the premises, he completely stripped the interior of the building which has remained vacant for almost three (3) years with no one interested in leasing the building and property. The owners had been trying to find a new tenant and were unsuccessful. They were recently contacted by a commercial real estate development company which has offered to buy the property and build an approved retail business on the property replacing the current building which has become an attractive nuisance for vagrant activity.
3. There is an outstanding unpaid first mortgage of approximately \$142,000.00 on the property which is senior to the County's four (4) code liens.
4. The sale of this property to a commercial real estate development group will be an economic benefit to the community and a benefit to the residential property owners and the daycare center located adjacent to the neglected property.
5. Since the tenants vacated the property, the owners have been expending a lot of time and money maintaining the property and are constantly boarding it up and removing illegally dumped trash and debris from the property.

Affidavits of Compliance have been issued by Code Enforcement and state that all of the cited violations were corrected as of the dates ranging from December 21, 2007 to July 6, 2010 and that the property is in full compliance with the CESM Orders.

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.