

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

365

AGENDA ITEM SUMMARY

Meeting Date: March 9, 2021

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 offer in the amount of \$154,000 for the full satisfaction of a code enforcement lien that was entered against D & N Real Estate Holdings on September 9, 2016.

Summary: The Code Enforcement Special Magistrate (CESM) entered an order on June 1st, 2016, for the property owned by D & N Real Estate Holdings providing them until July 31, 2016 to bring their property located at 6950 S. Congress Ave, Lake Worth, FL into full compliance. The property had been cited for damaged, diseased, missing or dead landscaping. Compliance with the CESM's Order was not achieved by the ordered compliance date and a fine in the amount of \$250 per day was imposed. The CESM then entered a claim of lien against D & N Real Estate Holdings on September 9, 2016. The Code Enforcement Division issued an Affidavit of Compliance (AOC) for the property on August 25, 2020 stating that the cited code violations had been fully corrected as of August 24, 2020. The total accrued lien amount through December 17, 2020, the date on which settlement discussions began, totaled \$439,894.87. D & N Real Estate Holdings have agreed to pay Palm Beach County \$154,000, (35%) for full settlement of their outstanding Code Enforcement lien. District 3 (SF).

Background and Justification: The violations that gave rise to this Code Enforcement lien were for damaged, diseased, missing or dead landscaping. The Special Magistrate provided D & N Real Estate Holdings until July 31, 2016 to bring their property into full code compliance or a fine of \$250 per day would begin to accrue. A follow-up inspection of the site by the Code Enforcement Division on August 1, 2016 confirmed that the property was still not in compliance. The Code Enforcement Division issued an Affidavit of Compliance for the property on August 25, 2020 stating the cited code violations had been corrected as of August 24, 2020. The Collections Section of OFMB was first contacted by Gary Resnick, Legal Representative for D & N Real Estate, on December 11, 2020, to discuss a settlement. Collections, after extensive review, evaluation, and discussions with Code Enforcement Division and the County Attorney's Office, has agreed to present the proposed settlement offer in the amount of \$154,000 to the Board for approval.

(Continued on page 3)

Attachments: none

Recommended by: Sherry Brown 2/5/2021
Department Director Date

Approved by: VBaker 2/11/21
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures					
Operating Costs					
External Revenues	(\$154,000)				
Program Income(County)					
In-Kind Match(County)					
NET FISCAL IMPACT	(\$154,000)				
#ADDITIONAL FTE POSITIONS (CUMULATIVE)					

Is Item Included In Current Budget? Yes X No
 Does this item include the use of federal funds? Yes No X

Budget Account No. Fund 0001 Department 600 Unit 6241 Object 5900

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:

Jim Martin 2/8/21 N/A
 OFMB Contract Dev. and Control
RAJ 2/5/21 *MJD 2/5/21* *SC 2/5*

B. Legal Sufficiency:

[Signature]
 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 Justification Continued (D & N Real Estate Holdings) Page 3

The factors considered during staff's review and evaluation of this settlement are as follows:

1. The subject property was leased to Consumer Value Store (CVS) and had been used as a CVS Pharmacy/Store. CVS took over the operation of this pharmacy/store from Eckerd Drugs in August of 2004. As the leaseholder, CVS was responsible for the landscaping of the perimeter while under contract with D& N Real Estate Holdings. The property had been cited for damaged, diseased, missing or dead landscaping which could have easily been resolved by replacing the missing or dead landscaping around the property.
2. CVS was made aware of the violations and undertook steps to address the landscaping issues. They hired a contractor to replace the dead and damaged landscaping. However, a site inspection on December 14, 2016 by Code Enforcement revealed that the property was still not in compliance.
3. From December 2016 through the beginning of 2020, there was no communication between the owner/tenant and code enforcement about the violations.
4. The lease was terminated and CVS vacated the property in March 2020.
5. The cited violations were finally corrected approximately four years from the date of the CESM's order. An Affidavit of Compliance was issued by Code Enforcement stating that the cited code violation was fully corrected as of August 24, 2020.
6. The landscaping issues did not interfere with the operation of the store or utilization of the property. Further, the cited violations did not involve any life/safety issues.
7. D & N Real Estate Holdings is in the process of selling the property. A portion of the proceeds from the sale of the property will be held in escrow by the title company to cover the proposed code lien settlement amount.

In light of the above stated circumstances, staff believes that the proposed settlement is fair and in the best interest of Palm Beach County.

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.