

RESOLUTION No.16-145

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING THE STIPULATION SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS, IN SUBSTANTIALLY THE FORM PROVIDED, FOR CASE NO. 09-82571 CA 32(01), SECTION 7 TRACT 64 PROPERTY INC. AND THE GRAND AT DORAL I. LTD V. THE CITY OF DORAL; AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS AND EXPEND BUDGETED FUNDS IN FURTHERANCE HEREOF; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 7 Tract 64 Property Inc. and The Grand at Doral I. Ltd. (“Plaintiffs”) are the owners of certain property located along the southern boundary of N.W. 82nd Street, between 109th and 112th Avenues, in the City of Doral (the “City”); and

WHEREAS, on April 21, 2008, Plaintiffs, through their attorneys, made a public records request (the “Request”), pursuant to Chapter 119, Florida Statutes, to the clerk of the CITY, which requested “all documents, including communications, related to development of the Properties and all documents, correspondences, agenda, minutes, transcripts and backups to any public meeting regarding Ordinance Nos. 2005-01, 2005-13, 2005-16, 2006-32, 2007-12, and 2008-01, which ordinances relate to the City’s potential comprehensive plan, moratorium on development within the City, and the City’s potential land development code;” and

WHEREAS, though the Request was received and acknowledged by the then City Clerk, responsive documents were only partially produced; and

WHEREAS, in 2009, Plaintiffs filed two separate actions against the City: one, a petition pursuant to §163.3213, Florida Statutes, in the Division of Administrative Hearings (Case No. 0-004297GM), challenging the City’s Comprehensive Master Plan

and Land Development Code (the “Administrative Matter”), and the second, a law suit in the Circuit Court (Case No. 09-82571 CA 32(01)), pursuant to the Florida Constitution and Chapter 119, Florida Statutes, to force the production of public records (the “Public Records Action”); and

WHEREAS, the Administrative Matter was settled, but the Public Records Action was never definitively resolved; and

WHEREAS, the Mayor and Council desire to resolve amicably this long-standing case.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

Section 2. Approval of Settlement. The Stipulation Settlement Agreement and Release of Claims, attached hereto as Exhibit “A”, which is incorporated herein and made a part hereof by this reference, is hereby approved.

Section 3. Authorization. The City Manager is hereby authorized to execute the Stipulation for Settlement and General Release and to expend funds due from the City as a result thereof.

Section 4. Implementation. The City Manager and City Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and provisions of this Resolution.

Section 5. Effective Date. This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Councilmember Rodriguez who moved its adoption. The motion was seconded by Councilmember Ruiz and upon being put to a vote, the vote was as follows:

Mayor Luigi Boria	Yes
Vice Mayor Christi Fraga	No
Councilman Pete Cabrera	Not Present at Time of the Vote
Councilwoman Ana Maria Rodriguez	Yes
Councilwoman Sandra Ruiz	Yes

PASSED AND ADOPTED this 10 day of August, 2016.




LUIGI BORIA, MAYOR

ATTEST:



CONNIE DIAZ, CMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



WEISS, SEROTA, HELFMAN, COLE, & BIERMAN, PL
CITY ATTORNEY

EXHIBIT “A”

STIPULATED SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

KNOW ALL MEN BY THESE PRESENTS:

Whereas, a legal dispute has arisen between SECTION 7 TRACT 64 PROPERTY INC., and THE GRAND AT DORAL I. LTD., ("PLAINTIFFS") and THE CITY OF DORAL ("CITY"), related to a request for public records pursuant to Chapter 119 of the Florida Statutes, collectively, all are also referred to herein as "the Parties"

Whereas, the Parties have agreed to settle this dispute. It is stipulated as follows:

- 1) On April 21, 2008, PLAINTIFFS, through their attorneys, made a public records request (the "Request"), pursuant to Chapter 119, Florida Statutes, to the clerk of the CITY, which requested

"all documents, including communications, related to development of the Properties and all documents, correspondences, agenda, minutes, transcripts and backups to any public meeting regarding Ordinance Nos. 2005-01, 2005-13, 2005-16, 2006-32, 2007-12, and 2008-01, which ordinances relate to the City's potential comprehensive plan, moratorium on development within the City, and the City's potential land development code."

- 2) The Request was received and acknowledged on the same date, by the then City Clerk.
- 3) On November 12, 2009, PLAINTIFFS filed suit in Circuit Court of Miami-Dade County, Case No: 09-82571 CA 32, seeking an order compelling the production of the public records, which were originally requested on April 21, 2008.
- 4) The CITY first produced documents responsive to the Request in May of 2008. It is agreed that these documents only partially responded to the subject matter of the Request. In July 2008, PLAINTIFF'S representative presented to City Hall to review additional documents provided by the then City Clerk in response to the Request. In November 2008, PLAINTIFF'S representative again presented to City Hall for a second review of additional documents produced by the then City Clerk. It was acknowledged then by the City that the records that had been produced had been limited to those maintained by the City Clerk's office and the Planning and Zoning Department. While the City, in early 2009, provided options for a search and compilations of potential records that may have been responsive to the Request, a finalized response was not provided by the City through the date of the filing of the above-referenced claim.

NOW THEREFORE, in consideration of the covenants in this Agreement and for other further good and valuable consideration, the receipt and sufficiency of which is mutually acknowledged, the Parties agree a follows:

- 5) As a complete settlement of all claims referred to herein the Parties agree that the CITY shall pay the sum of Thirty-Two Thousand Five Hundred Dollars and No Cents (\$32,500.00) to the Law Offices of Lydia P. Hernandez, for attorney fees and costs incurred by PLAINTIFFS, in pursuing the subject public records request and litigation related thereto. Said fees to be paid within 10 days of the execution of this agreement but no later than August 31, 2016.
- 6) The Parties , in exchange for the consideration described herein and in exchange for and in consideration of the total sum of Thirty-Two Thousand Five Hundred Dollars and No Cents (\$32,500.00) (the "Payment"), to be paid by the City to the Plaintiff, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby completely and fully release, acquit, satisfy, remise, and forever discharge each other, including the City's respective staff, elected and appointed officials, councilpersons, employees, agents, attorneys, assigns, and representatives, presently elected, appointed or employed and/or in office or employed at the time of the Request, and further including all employees and representatives of Plaintiffs' from any liability, obligation, or responsibility, including but not limited to all claims alleged, and also all other demands, actions, causes of action, controversies, declaratory judgment

actions, cross claims, counterclaims, debts, damages, common law claims, statutory claims, costs, expenses, attorneys' fees, compensation, obligations, and liabilities of any and every nature whatsoever at law or in equity, whether known or unknown, suspected or unsuspected, matured or unmatured, liquidated or unliquidated, and whether or not contingent (all of the foregoing are collectively referred to as "Claims"), which the Parties ever had, now have, or may have against the each other arising out of his April 21, 2008 Public Records Request (the "Request") and/or from the action styled Section 7 Tract 64 Property, Inc. and the Grand at Doral I, LTD v. City of Doral, Case No. 09-82571 CA 32, filed in the 11th Judicial Circuit Court, Miami-Dade, Florida (the "Lawsuit").

- 7) Upon payment of the aforementioned fees, the matter will be dismissed with prejudice by stipulation of the parties.
- 8) In the event City defaults in the making of the payment when due as required by this Agreement, the Plaintiffs shall be and are authorized to obtain a judgment against City for the full amount of the claim in the amount of Thirty Two Thousand Five Hundred Dollars (\$32,500.00), after written application to the Court and filing a copy of this Agreement and an affidavit from the Plaintiffs regarding the default and the amount due. City expressly waives any and all defenses, set-offs, or other claims and hereby waives any right to trial, whether by jury or otherwise. The City shall then be fully responsible for all costs of enforcing this Agreement, including, but not limited to, all court costs and attorney's fees.
- 9) A payment by City or receipt by Plaintiffs of a lesser amount than the full amount due to Plaintiffs shall not, under any circumstance, shall be deemed to be other than on account of the entire sum due to Plaintiff from City, nor shall any endorsement or statement on any check or any letter accompanying any check or payment tendered in partial satisfaction of any indebtedness of the City as to Plaintiffs be deemed an accord and satisfaction, and Plaintiffs may accept a check or payment without prejudice to Plaintiffs' right to recover the balance of such indebtedness or pursue any other remedy as provided by this Agreement by and between the parties or by law or equity.
- 10) In executing this Agreement, the Parties acknowledge that they have consulted with and have been advised by their attorneys, and that they have executed this Agreement after independent investigation, and without fraud, duress, or undue influence. Each of the Parties acknowledge that it is fully aware of the significance and legal effect of this Agreement, including the Agreement's release provisions, and that each Party is not entering into this Agreement in reliance on any representation, promise, or statement made by any Party except those explicitly contained in this Agreement.
- 11) No waiver by either Party of any breach by either of them of any condition or provision of this Agreement shall be deemed a waiver of any similar or dissimilar condition or provision at the same or any prior or subsequent time. Any delay by either Party in enforcing its rights after a default shall not be a release or waiver of such default and shall not be relied upon by either Party as a release or waiver of the default. All rights are cumulative under this Agreement.
- 12) The Parties hereby irrevocably declare and agree as follows: This Agreement is deemed to have been signed in the State of Florida. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, regardless of the conflict or choice of laws principals thereof. Any legal action, suit, or other proceeding arising out of or in any way connected with, this Agreement must be brought in the courts of the State of Florida, or in the United States court for the District of Florida. With respect to any such proceeding in any such court: (a) City generally and unconditionally submits itself and its property to the exclusive jurisdiction of such court; (b) City waives, to the fullest extent permitted by law, any objection she has or hereafter may have to the venue of such proceeding, as well as any claim she has or may have that such proceeding is in an inconvenient forum.

- 13) Both parties each represent and warrant that they have full power, authority and capacity to make the commitments and representations contained in this Agreement and that each party has full authority to execute this agreement.
- 14) This Agreement constitutes a single integrated written contract expressing the entire agreement between the Parties. There is no other agreement, oral or written, expressed or implied, between the Parties with respect to the subject matter hereof, except this Agreement. This Agreement may be modified only in writing signed by the Parties.
- 15) This settlement agreement may be executed in separate counterparts.

[Remainder of page intentionally left blank.]

SIGNATURE PAGES TO FOLLOW

Executed on this 5th day of August, 2016.

SECTION 7 TRACT 64 PROPERTY, INC.

[Signature]
By: Pablo J. Valdes
Its: President

STATE OF FLORIDA)
)SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 5th day of August 2016 by Pablo Valdes as President of Section 7, Tract 64 Property Inc., who personally appeared before me, is personally known to me or has produced _____ as identification.

[NOTARIAL SEAL]

Notary: [Signature]
Print Name: Eileen Guiot
Notary Public, State of: _____
My Commission Expires: _____



THE GRAND AT DORAL ONE, LTD. a Florida limited partnership

By: The Grand at Doral One, Inc. a Florida corporation, its General Partner

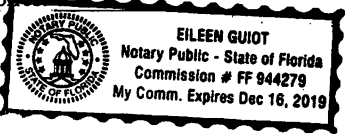
[Signature]
By: Pablo J. Valdes
Its: President

STATE OF FLORIDA)
)SS:
COUNTY OF MIAMI-DADE)

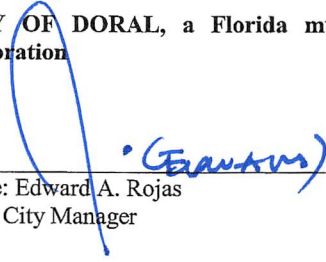
The foregoing instrument was acknowledged before me this 5th day of August 2016 by Pablo J. Valdes, as President of The Grand at Doral One, Inc., who personally appeared before me, is personally known to me or has produced _____ as identification.

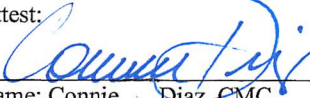
[NOTARIAL SEAL]

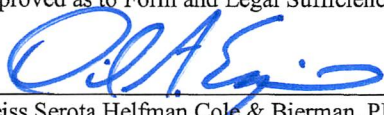
Notary: [Signature]
Print Name: Eileen Guiot
Notary Public, State of: _____
My Commission Expires: _____



CITY OF DORAL, a Florida municipal corporation

By: 
Name: Edward A. Rojas
Title: City Manager

Attest: 
Name: Connie Diaz, CMC
Title: City Clerk

Approved as to Form and Legal Sufficiency:

Weiss Serota Helfman Cole & Bierman, PL
City Attorney

[Remainder of page intentionally left blank.]