

Meeting Date
July 7, 2015



AGENDA	
Section	CONSENT
Item No.	II.D.7

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Approve Stipulated Final Judgment in the amount of \$70,000.00 re: Brevard County v. Walter E. Platt, et al, 05-2013-CA-72132, Parcel 102.2 (Hammer, Richard and Rhonda)
DEPT/OFFICE:	County Attorney's Office and Public Works Department Scott Knox, County Attorney and Eden Bentley, Deputy County Attorney <u>Scott.knox@brevardcounty.us; eden.bentley@brevardcounty.us</u> John Denninghoff, Director Public Works, <u>john.denninghoff@brevardcounty.us</u>

Requested Action:
 Approve Stipulated Final Judgment in the amount of \$70,000.00 less amount previously deposited.

Summary Explanation & Background:

A petition in eminent domain was filed in 2013 to take necessary parcels for the southern segment of the St. Johns Heritage Parkway Project.

On May 12, 2015, the Board of County Commissioners met in an attorney-client private meeting and authorized an offer of judgment to the owners of Parcel 102.2, Rhonda and Richard Hammer. The Hammers accepted the offer and the stipulated final judgment complies with the accepted offer of judgment.

The settlement in the amount of \$70,000.00 less the \$20,000 previously paid represents payment for the land and any damages to the remainder. Attorneys fees and costs were not included in the offer of judgment and remain issues to be addressed in the future.

Fiscal Impact: \$50,000.00 (Settlement of \$70,000.00 less \$20,000.00 previously paid)
 Commission District: 5
 Fund Account/Cost Code: Fund 1700/344928/5610000 FDOT Grant

Clerk to the Board Instructions:

Exhibits Attached: Joint Motion and Stipulated Final Judgment (Parcel 102.2)

Contract /Agreement (If attached): Reviewed by County Attorney	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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County Manager	Assistant County Manager	Department Director / Extension Scott Knox, County Attorney/52090 John Denninghoff Public Works Director
Stockton Whitten	Assistant County Manager	



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972

July 8, 2015

MEMORANDUM

TO: Scott Knox, County Attorney

RE: Item II.D.7., Stipulated Final Judgment in the Amount of \$70,000 for Brevard County v. Walter E. Platt, et al, Case No. 05-2013-CA-72132, Parcel 102.2 (Hammer, Richard and Rhonda)

The Board of County Commissioners, in regular session on July 7, 2015, approved the Stipulated Final Judgment in the amount of \$70,000, less the amount previously deposited, for Brevard County v. Walter E. Platt, et al, Case No. 05-2013-CA-72132, Parcel 102.2 (Hammer, Richard and Rhonda).

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

A handwritten signature in cursive script that reads "Tammy Etheridge".

Tammy Etheridge, Deputy Clerk

cc: Public Works Director
Finance
Budget

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO. 05-2013-CA-072132-XXXX-XX

BREVARD COUNTY, FLORIDA, a political
subdivision of the State of Florida,

Petitioner,

v.

WALTER E. PLATT AND CARLYN P. PLATT,
HUSBAND AND WIFE AS TO A LIFE ESTATE AND
WALTER E. PLATT AND CARLYN P. PLATT AS
TRUSTEES OF THE WALTER E. PLATT AND
CARLYN P. PLATT TRUST AGREEMENT DATED
NOVEMBER 9, 1999; RICHARD M. HAMMER;
RHONDA J. HAMMER; DOUGLAS W. HARRISON,
JR.; TOBIE JULIENNE HARRISON; LISA CULLEN,
Brevard County Tax Collector, and ALL PARTIES
CLAIMING INTEREST BY, THROUGH, UNDER OR
AGAINST THE NAMED DEFENDANTS; and if any of
the Defendants or all Defendants are deceased, THE
UNKNOWN SPOUSE, HEIRS, DEVISEES, GRANTEEES,
CREDITORS, LIENORS, OR OTHER PARTIES
CLAIMING BY, THROUGH, UNDER, OR AGAINST
ANY SUCH DECEASED DEFENDANT OR
DEFENDANTS IF ALIVE AND IF DEAD THEIR
UNKNOWN SPOUSE, HEIRS, DEVISEES, LEGATEES,
GRANTEEES, CREDITORS, LIENORS, OR OTHER
PARTIES CLAIMING BY, THROUGH, UNDER OR
AGAINST ANY SUCH DECEASED DEFENDANT OR
DEFENDANTS,

Respondents/Defendants.

**JOINT MOTION FOR STIPULATED FINAL JUDGMENT FOR PARCEL 102.2
HAMMERS**

The Petitioner, BREVARD COUNTY, FLORIDA and the Respondents, RICHARD M.
HAMMER and RHONDA J. HAMMER, by and through the undersigned counsel, respectfully
move for the entry of the attached Stipulated Final Judgment as to Parcel 102.2 on this _____
day of July, 2015.

GRAY|ROBINSON, P.A.
1795 West NASA Boulevard
P. O. Box 1870
Melbourne, Florida 32901
Telephone: 321.727-8100
Facsimile: 321-984-4122
Jack.kirschenbaum@gray-robinson.com

Jack A. Kirschenbaum, Esq.
Florida Bar No. 250759

Attorney for Respondents Richard C. Hammer
and Rhonda J. Hammer

OFFICE OF THE COUNTY ATTORNEY
2725 Judge Fran Jamieson Way
Building C - Suite 308
Viera, Florida 32940
Telephone: 321.633.2090
Facsimile: 321.633.2096
Eden.bentley@brevardcounty.us

Eden Bentley, Deputy County Attorney
Florida Bar No. 370908

Attorney for Petitioner Brevard County

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO. 05-2013-CA-072132-XXXX-XX

BREVARD COUNTY, FLORIDA,
a political subdivision of the State of Florida,

Petitioner,

v.

WALTER E. PLATT AND CARLYN P. PLATT,
HUSBAND AND WIFE AS TO A LIFE ESTATE AND
WALTER E. PLATT AND CARLYN P. PLATT AS
TRUSTEES OF THE WALTER E. PLATT AND
CARLYN P. PLATT TRUST AGREEMENT DATED
NOVEMBER 9, 1999; RICHARD M. HAMMER;
RHONDA J. HAMMER; DOUGLAS W. HARRISON,
JR.; TOBIE JULIENNE HARRISON; LISA CULLEN,
Brevard County Tax Collector, and ALL PARTIES
CLAIMING INTEREST BY, THROUGH, UNDER OR
AGAINST THE NAMED DEFENDANTS; and if any of
the Defendants or all Defendants are deceased, THE
UNKNOWN SPOUSE, HEIRS, DEVISEES, GRANTEEES,
CREDITORS, LIENORS, OR OTHER PARTIES
CLAIMING BY, THROUGH, UNDER, OR AGAINST
ANY SUCH DECEASED DEFENDANT OR
DEFENDANTS IF ALIVE AND IF DEAD THEIR
UNKNOWN SPOUSE, HEIRS, DEVISEES, LEGATEES,
GRANTEEES, CREDITORS, LIENORS, OR OTHER
PARTIES CLAIMING BY, THROUGH, UNDER OR
AGAINST ANY SUCH DECEASED DEFENDANT OR
DEFENDANTS,

Respondents/Defendants.

STIPULATED FINAL JUDGMENT FOR PARCEL 102.2

THIS CAUSE having come on upon joint motion for the entry of a Stipulated Final Judgment made by the Petitioner, BREVARD COUNTY, FLORIDA, and Respondents RICHARD M. HAMMER, RHONDA J. HAMMER, set forth herein below; and it appearing to the Court that the parties were authorized to enter into such motion; and the Court finding that

the Stipulated Order of Taking for Parcel 102.2 entered February 24, 2014, and recorded in Official Records Book 7107 at Page 105 on April 16, 2014, in the Official Records of Brevard County, Florida, vested Parcel 102.2 in the Petitioner, Parcel 102.2 being described in Exhibit "A" attached hereto and incorporate herein.

ORDERED and ADJUDGED that the Respondents, RICHARD M. HAMMER, RHONDA J. HAMMER, shall have and recover from the Petitioner the sum of Seventy Thousand Dollars and No Cents (\$70,000.00) for Parcel 102.2 (less \$20,000.00 for parcel 102.2 previously paid) plus interest at the statutory rate from February 24, 2014, to the date of payment required above, in full payment for the land taken and all damages of any nature resulting from the taking of Parcel 102.2.

ORDERED, that upon payment of the monies and satisfaction of the obligations described herein, the Respondents, RICHARD M. HAMMER, RHONDA J. HAMMER shall have no further claims of any nature against the Petitioner, BREVARD COUNTY, FLORIDA, as a result of this action except for payment of expert witness fees and costs. The court specifically reserves jurisdiction to award attorneys fees and costs relating to Parcel 102.2.

ORDERED that upon entry of this Stipulated Final Judgment, the Petitioner shall pay to Gray|Robinson, P.A. c/o Jack A. Kirschenbaum, Esq., the sum of Fifty Thousand Dollars and No Cents (\$50,000.00) plus the interest accrued at the statutory rate and mail such check to: Gray|Robinson, P.A., P.O. Box 1870, Melbourne, Florida 32901-1870 for proper disbursement on behalf of Respondents RICHARD M. HAMMER and RHONDA J. HAMMER.

ORDERED AND ADJUDGED FURTHER upon receipt of the monies referenced above, RICHARD M. HAMMER, RHONDA J. HAMMER shall file a Satisfaction of Judgment in this cause.

DONE AND ORDERED in Chambers at the Harry T. & Harriette V. Moore Justice Center, Viera, Brevard County, Florida, this _____ day of _____, 2015.

Lisa Davidson
Circuit Judge

I hereby certify that a conformed copy of the above has been furnished by U.S. Mail to counsels of record listed below, this _____ day of _____, 2015.

Judicial Assistant

Eden Bentley, Esq.
Deputy County Attorney
Brevard County Attorney's Office #MS 89
2725 Judge Fran Jamieson Way, C-308
Viera, FL 32940

Jack A. Kirschenbaum, Esq.
Gray|Robinson, P.A.
P. O. Box 1870
Melbourne, FL 32901

EXHIBIT "A"

Description: Parcel 102.2 (Hammers as fee simple owner)

A parcel of land located within Lot 27, FLORIDA INDIAN RIVER LAND COMPANY, as recorded in Plat Book 2, Page 80, Public Records of Brevard County, Florida, and being in the North $\frac{1}{2}$ (one-half) of the Northwest $\frac{1}{4}$ (one-quarter) of Section 10, Township 28 South, Range 36 East, being described as follows:

Commence at the Northwest corner of the Northwest $\frac{1}{4}$ (one-quarter) of Section 10, Township 28 South, Range 36 East; thence run North 89 degrees 35'56" East along the North line of said Northwest $\frac{1}{4}$ (one-quarter), a distance of 1411.77 feet; thence departing said North line, run South 00 degrees 24'04" East, a distance of 48.00 feet to the South Right-of-Way line of Melbourne Tillman Drainage District Canal No. 84 and the POINT OF BEGINNING; thence, departing said South Right-of-Way line, South 00 degrees 39'50" West, a distance of 297.10 feet; thence South 89 degrees 36'46" West, a distance of 87.58 feet; thence North 00 degrees 12'14" West, a distance of 33.12 feet to the point of curvature of a curve to the right having a radius of 23,023.31 feet; thence Northeasterly along said curve an arc distance of 263.92 feet through a central angle of 00 degrees 39'24" to the end of said curve and the aforesaid South Right-of-Way line; thence North 89 degrees 35'56" East, along said South Right-of-Way line, a distance of 90.57 feet to the POINT OF BEGINNING.

Said lands containing 0.609 acres, more or less.