

Meeting Date
July 12, 2016



AGENDA	
Section	New Business
Item No.	VI D 2

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Defendant, Amy Fineberg's Reverse Offer of Judgment to Brevard County in Brevard County v. Amy Fineberg, et al
DEPT/OFFICE:	Public Works Department, John Denninghoff County Attorney's Office, Scott Knox/Eden Bentley

Requested Action:

It is requested that the Board consider and reject the Reverse Offer of Judgment from Amy Fineberg and authorize offer of judgment to Amy Fineberg in the amount of \$62,000 (Option 3).

Summary Explanation & Background:

Background: The parent tract is a 12.89 acre parcel located on the corner of Hall Road and SR 3 (Courtenay Parkway). The County acquired a 0.23 strip of land along Hall Road on April 4, 2013 to improve the intersection. The County's appraiser valued the taken strip at \$36,400. Respondent made an initial reverse offer of judgment 6 months ago for \$78,450 excluding costs and fees, which was rejected by the Board.

On June 27, 2016, the property owner made another Reverse Offer of Judgment for \$69,500 excluding costs and attorney's fees.

The property owner's appraised value is \$74,300 with severance damages of \$30,000. This does not include attorney's fees and reasonable costs, which must also be paid per the statutory requirements. The property owner approximates current costs to be \$31,607. Attorney's fees would be approximately \$10,000 if this offer were accepted. The total potential payment would be approximately \$111,107.

Staff recommends rejection of the Reverse Offer of Judgment from Amy Fineberg. Staff requests authorization to submit an Offer of Judgment in the amount of \$62,000 to Amy Fineberg. The reasonableness of the costs Defendant has incurred prior to settlement will be addressed at a later date. Payment of the statutory attorney fee would be required if the offer to Amy Fineberg is accepted.

Options:

1. Accept Amy Fineberg's Reverse Offer of Judgment for \$69,500.
2. Reject Amy Fineberg's Reverse Offer of Judgment for \$69,500.
3. Reject Amy Fineberg's Reverse Offer of Judgment for \$69,500 and make a counter offer of \$62,000.
4. Reject Amy Fineberg's Reverse Offer of Judgment for \$69,500 and instruct staff on a counter offer to Amy Fineberg.
5. Take no action (Reverse Offer of Judgment will be deemed rejected on July 26, 2016).
6. Request an executive session prior to July 26, 2016.

Fiscal Impact: Depends on option chosen

Clerk to the Board Instructions:

Exhibits Attached: Respondent, Amy Fineberg, Reverse Offer of Judgment

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



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

July 13, 2016

M E M O R A N D U M

TO: John Denninghoff, Public Works Director

RE: Item VI.D.2., Acknowledge and Reject Offer of Judgment of Brevard County v. Amy Fineberg, et al, Case No. 05-2013-CA-023226-XXXX-XX

The Board of Commissioners, in regular session on July 12, 2016, approved Option 3, to reject the Offer of Judgment from Amy Fineberg; and authorized a counter offer in the amount of \$62,000.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

cc: County Attorney
Finance
Budget

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

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

Petitioner,

v.

CASE NO. 05-2013-CA-023226-XXXX-XX

AMY FINEBERG, et. al.

Respondent/Defendant.

AMENDED REVERSE OFFER OF JUDGMENT

Respondent/Defendant, Amy Fineberg, and Amy Fineberg, as Trustee of the Irving Fineberg Irrevocable Trust u/t/a dated January 1, 2000 (collectively "FINEBERG") by and through her undersigned counsel, pursuant to §73.032(3), Fla. Stat., serves this, its Amended Reverse Offer of Judgment and states that FINEBERG offers to settle all claims with the Petitioner, BREVARD COUNTY, FLORIDA ("PETITIONER"), including land, improvements and severance damages, for the total sum of \$ 69,500.00 (Sixty-nine Thousand Five Hundred AND NO/100 DOLLARS), exclusive of attorneys' fees, expert witness fees and costs, which shall be reserved by the Court.

This Amended Reverse Offer of Judgment, on acceptance by PETITIONER, would settle all pending claims as to Parcel 100 exclusive of attorneys' fees, expert witness fees and costs.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery this 27th day of June, 2016 to:

Diana E. Yuan, Assistant County Attorney
Office of the County Attorney
2725 Judge Fran Jamieson Way
Building C
Viera, Florida 32940
Primary emails: diana.yuan@brevardcounty.us
Secondary emails: cathleen.cummings@brevardcounty.us

/s/ Mark R. Leavitt

MARK R. LEAVITT, ESQ.

Florida Bar No. 655600

Dean, Mead, Egerton, Bloodworth,

Capouano & Bozarth, P.A.

800 N. Magnolia Avenue, Suite 1500

Post Office Box 2346

Orlando, Florida 32802-2346

Telephone: (407) 841-1200

Fax: (407) 423-1831

Attorneys for Respondent/Defendant Amy Fineberg