



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - County Attorney

J.2.

4/21/2026

Subject:

Settlement of *Atlantic Housing Partners L.L.P., et al v. Brevard County*, Case No. 6:23-CV-02473-CEM-DCI in the United States District Court for the Middle District of Florida, Orlando Division.

Fiscal Impact:

The plaintiffs in the above-described litigation will pay \$125,000 to Brevard County to offset attorneys' fees and costs incurred in defense of the lawsuit. The settlement payment will be deposited into the Risk Management General Liability Line Cost Center 389620. The County has incurred attorneys' fees and costs totaling approximately \$392,000. Of the remaining \$267,000, the County is responsible for the first \$100,000 under its self-insured retention insurance policy, and the insurer will reimburse the County for the balance of \$167,000.

Dept/Office:

County Attorney's Office

Requested Action:

Approve the mediated settlement between Brevard County and the plaintiffs and authorize the Chair and County Attorney to sign a settlement agreement, release, and related documents as necessary and appropriate.

Summary Explanation and Background:

On December 27, 2023, plaintiffs Atlantic Housing Partners L.L.P., Canton Construction, LLC, Concord Management, Ltd., and The Venue at Heritage Oaks Partners, Ltd. brought the case styled *Atlantic Housing Partners L.L.P., et al v. Brevard County*, Case No. 6:23-CV-02473-CEM-DCI in the United States District Court for the Middle District of Florida, Orlando Division, asserting federal civil-rights claims against Brevard County.

The plaintiffs intended to develop a 105-unit affordable housing multifamily rental project in West Melbourne and requested that the Board of County Commissioners approve tax exempt private activity bond financing pursuant to the Tax Equity and Fiscal Responsibility Act (TEFRA). After conducting two hearings, the Board denied the request based primarily on concerns from the City of West Melbourne and area residents concerning the suitability of the project for the selected site. The plaintiffs asserted that the denial violated both the federal Fair Housing Act (FHA) and the Florida Fair Housing Act (FFHA). The plaintiffs alleged that they suffered damages totaling \$14,423,06 plus attorney's fees and costs.

The County filed a claim on its public officials' liability coverage, which is a self-insured retention (SIR) policy. SIR policies contain a specified dollar amount a policyholder must pay out-of-pocket for damages and defense costs before an insurance policy covers a loss. In the applicable County policy, that amount is \$100,000. While the insurer tendered a defense and assigned outside counsel, it did so subject to a full and complete

reservation of its rights under the coverage agreement and applicable law. The policy has a \$3,000,000 per claim liability limit.

The County filed a motion to dismiss the lawsuit, which was denied by the court. The parties then engaged in extensive litigation, including retention of expert witnesses, written discovery, and depositions. The case was scheduled for a jury trial in February 2026.

On January 13, 2026, the court entered an order granting summary judgment in favor of Brevard County, disposing of all claims against the County. The court's order expressly found that the plaintiffs failed to establish genuine issues of material fact and failed to present sufficient evidence to sustain the asserted claims.

Brevard County is entitled to recover taxable costs of approximately \$36,000. Under 42 U.S.C. § 3613(c)(2), a prevailing party in an FHA lawsuit may recover attorneys' fees and non-taxable costs. Both 42 U.S.C. § 1988 and 42 U.S.C. § 3613 authorize an award of reasonable attorneys' fees to a prevailing defendant where the plaintiff's claims are frivolous, objectively unreasonable, or without factual or legal foundation. As the prevailing party, Brevard County sought recovery of its attorneys' fees (approximately \$204,000) and non-taxable costs (approximately \$151,000), asserting that the plaintiffs' claims were frivolous, unreasonable, and without foundation from the outset and certainly once discovery closed.

Before the district court could rule on the County's motion for attorneys' fees and non-taxable costs, the plaintiffs filed an appeal in the United States Court of Appeals for the Eleventh Circuit. The parties were ordered to engage in appellate mediation. After hours of mediation on the afternoon of April 14, the parties agreed to settle the case with the plaintiffs paying Brevard County \$125,000, dismissing their appeal, and releasing all claims against the County. The settlement is contingent upon approval by the Board of County Commissioners.

The County Attorney, the claims adjuster, and outside counsel for the County agreed that the proposed settlement is reasonable for several reasons. First, the County's claim for attorney's fees and non-taxable costs is not guaranteed and hotly contested. The County is only assured of recovering \$36,000 in taxable costs, so the settlement agreement is \$86,000 greater than the County's minimum recovery. Second, significant additional fees and costs would be incurred in defending the appeal. Third, there is a small but not negligible chance that the appellate court could disagree with the district court's reasoning or set aside the summary judgment on technical grounds. If that happened, the case would be sent back to the district court for trial, with its associated expenses. While extremely unlikely, one cannot completely discount the chance that the plaintiffs might then prevail at trial. In that case, the County could be found liable for alleged damages up to \$14 million, plus attorneys' fees and costs. As noted above, the alleged damages far exceed the policy's \$3 million liability limit. Further, because the insurer tendered a defense subject to a reservation of rights, there could be a dispute regarding the applicability of coverage even for the policy limits.

For these reasons, it is recommended that the Board of County Commissioners accept the plaintiffs' final offer of \$125,000 and approve the proposed settlement.

Clerk to the Board Instructions:

Please return a memo reflecting the Board's action to the County Attorney's Office.



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

April 22, 2026

M E M O R A N D U M

TO: Morris Richardson, County Attorney

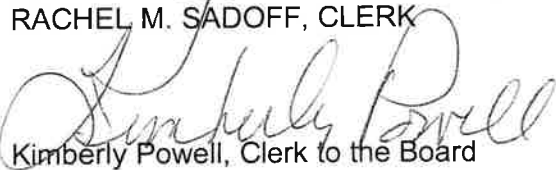
RE: J.2., Settlement of Atlantic Housing Partners L.L.L.P., et al v. Brevard County, Case No. 6:23-CV-02473-CEM-DCI in the United States District Court for the Middle District of Florida, Orlando Division

The Board of County Commissioners, in regular session on April 21, 2026, approved the mediated settlement between Brevard County and the plaintiffs and authorized the Chair and County Attorney to sign a settlement agreement, release, and related documents as necessary and appropriate.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

/sj

cc: Finance
Budget

SETTLEMENT AGREEMENT AND GENERAL RELEASE

THIS Settlement Agreement and General Release (hereinafter "Agreement") is made and entered into by ATLANTIC HOUSING PARTNERS L.L.P., CANTON CONSTRUCTION, LLC, CONCORD MANAGEMENT, LTD., THE VENUE AT HERITAGE OAKS PARTNERS, LTD. (hereinafter referred to as "PLAINTIFFS") and BREVARD COUNTY (hereinafter referred to as "DEFENDANT").

DEFINITIONS

A. As used in this Agreement, the term "PLAINTIFFS" shall mean ATLANTIC HOUSING PARTNERS L.L.P., CANTON CONSTRUCTION, LLC, CONCORD MANAGEMENT, LTD., and THE VENUE AT HERITAGE OAKS PARTNERS, LTD. as well as their owners, partners, officers, directors, employees, agents, insurers, attorneys, successors and assigns, singular or plural, wherever the context so admits or requires.

B. As used in this Agreement, the term "DEFENDANT" shall mean BREVARD COUNTY, as well as its past and present officials, board members, officers, directors, superintendent, employees, boards, agents and attorneys, in both their individual and official capacities, jointly or severally, singular or plural, wherever the context so admits or requires.

C. As used in this Agreement, the term "INSURER" shall mean all insurers and third-party administrators of the DEFENDANT, including but not

limited to, PREFERRED GOVERNMENTAL INSURANCE TRUST and/or DAVIES INSURANCE COMPANY, as well as its agents, including PREFERRED GOVERNMENTAL CLAIM SOLUTIONS, officers, officials, employees, representatives, attorneys, successors and assigns, jointly or severally, singular or plural, wherever the context so admits or requires.

D. As used in this Agreement, the terms “PARTY” and “PARTIES” shall mean PLAINTIFFS, DEFENDANT or INSURER whether in the singular or the plural.

RECITALS

WHEREAS, PLAINTIFFS filed an action in the United States District Court for the Middle District of Florida, Orlando Division, styled *Atlantic Housing Partners, L.L.P., et al. v. Brevard County*, Case No. 6:23-cv-2473-JSS-DCI (hereinafter “lawsuit”), asserting claims under the federal Fair Housing Act and the Florida Fair Housing Act; and

WHEREAS, DEFENDANT has expressly denied and continues to expressly deny it violated any of PLAINTIFFS’ rights protected by either federal or state law and denies the claims and allegations which are set forth in the above-referenced lawsuit and any other cause of action that has or could arise out of PLAINTIFFS’ claims against DEFENDANT, but is desirous of entering into this compromise and negotiated settlement of a disputed claim in order to avoid further litigation and attendant costs; and

WHEREAS, the Court granted DEFENDANT'S Motion for Summary Judgment and entered judgment in DEFENDANT'S favor on or about January 14, 2026, and DEFENDANT thereafter filed a motion seeking recovery of its attorneys' fees and taxable costs; and

WHEREAS, PLAINTIFFS filed a Notice of Appeal to the United States Court of Appeals for the Eleventh Circuit on or about February 12, 2026 (No. 26-10486-HH); and

WHEREAS, PLAINTIFFS and DEFENDANT have entered into good faith settlement negotiations resulting in this Agreement; and

WHEREAS, the purpose of this Agreement is to settle and compromise any and all prior and existing disputes, claims and controversies between the Parties, without any future costs and expenses of litigation and to bar any and all future disputes, claims and controversies between the Parties which may arise out of any conflicts or events, known or unknown, that have occurred up to the date of the execution of this Agreement, including but not limited to those which relate directly or indirectly to DEFENDANT'S claim for attorneys' fees and costs and PLAINTIFFS' Appeal; and

WHEREAS, each Party believes settlement of this dispute is in their mutual best interests and acknowledge and agree that settlement of this claim does not constitute an admission of liability or responsibility on the part of either PLAINTIFFS or DEFENDANT; and

WHEREAS, the Parties desire to memorialize their Agreement.

NOW THEREFORE, in consideration of the mutual covenants to be performed by each of the Parties hereto and set forth in their entirety herein, the Parties agree as follows:

1. **Agreement**

A. Release and Discharge.

In consideration for the payments and other good and valuable consideration set forth in Paragraph (2) below, PLAINTIFFS release, acquit, and forever discharge the DEFENDANT and INSURER of and from any and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, claims for attorney's fees, interest, or costs, executions, claims and demands whatsoever, in law or in equity, of whatever nature, which PLAINTIFFS ever had, now have, or which any personal representative, successor, heir or assign of PLAINTIFFS, hereafter can, shall or may have against the DEFENDANT and/or INSURER, occurring prior to the date of this Agreement, relating to those claims or demands which arise out of or are related to the allegations in the above-referenced lawsuit and/or which relate directly or indirectly to DEFENDANT'S claim for attorneys' fees and costs and PLAINTIFFS' Appeal.

PLAINTIFFS acknowledge and agree that this is a General Release of any

and all claims, including but not limited any claims under the federal Fair Housing Act and the Florida Fair Housing Act, or the violation of any administrative, local, State or Federal Constitution, statute, rule, regulation, ordinance or law relating to those claims or demands that arise out of or are related to the allegations in the above-referenced lawsuit..

PLAINTIFFS specifically waive, release, acquit, and forever discharge any claims, actions, rights of action whatsoever they may have against the DEFENDANT and/or INSURER, under the federal Fair Housing Act and the Florida Fair Housing Act relating to those claims or demands that arise out of or are related to the allegations in the above-referenced lawsuit, including attorney's fees or costs, or any other state, federal or administrative rule, statute, ordinance or law of any nature relating to charges of alleged discrimination.

In consideration for the payments and other good and valuable consideration set forth in Paragraph (2) below, DEFENDANT and INSURER release, acquit, and forever discharge the PLAINTIFFS of and from any and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, claims for attorney's fees, interest, or costs, executions, claims and demands whatsoever, in law or in equity, of whatever nature, which DEFENDANT and INSURER ever had, now have, hereafter can, shall or may have against the PLAINTIFFS, occurring prior

to the date of this Agreement, relating to those claims or demands which arise out of or are related to the allegations in the above-referenced lawsuit and/or which relate directly or indirectly to DEFENDANT'S claim for attorneys' fees and costs and PLAINTIFFS' Appeal.

C. It is understood and agreed by the Parties that this settlement is a compromise of a litigated and/or disputed claim and neither this Agreement nor any consideration to be paid hereunder shall be construed as an admission by the DEFENDANT or INSURER of any unlawful, tortious or wrongful acts whatsoever towards PLAINTIFFS, and the DEFENDANT and INSURER specifically disclaim any liability to PLAINTIFFS or the propriety of any and all factual or legal averments made by PLAINTIFFS in the above-referenced lawsuit.

D. PLAINTIFFS and DEFENDANT/INSURER agree that they will not actively seek out media attention or publicity regarding the terms, the amount or conditions of this Agreement. If contacted, PLAINTIFFS and DEFENDANT and INSURER agree simply to indicate that the matter has been resolved.

E. PLAINTIFFS specifically agree to dismiss any and all pending claims against DEFENDANT, including the pending appeal (No. 26-10486-HH) in the matter of *Atlantic Housing Partners L.L.P., A Florida Limited Liability Partnership; Canton Construction, LLC, A Florida Limited Liability Corporation; Concord Management, Ltd., A Florida Limited Partnership; The Venue At Heritage Oaks Partners, Ltd. v. Brevard County, A Political Subdivision of the State Of*

Florida, US District Court, Middle District of Florida, Case No. 6:23-cv-2473-JSS-DCI, with prejudice.

F. DEFENDANT agrees to withdraw any and all claims it may have for attorney's fees and any and all costs in both the lawsuit and the pending appeal.

2. **Consideration**

A. In consideration of the Agreement set forth above, PLAINTIFFS will pay DEFENDANT, the total sum of ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS AND ZERO CENTS (\$125,000.00). Payment will be made to "Brevard County Board of County Commissioners." This payment represents full and complete settlement of any and all claims between the Parties, including DEFENDANT'S claim for attorneys' fees, costs, and any other monetary relief sought or that could have been sought in the lawsuit or the appeal.

B. Payment shall be due within twenty (20) calendar days following the Parties' execution of the Agreement and shall be sent to DEFENDANT'S attorney's office.

C. Upon receipt of the Settlement Amount, DEFENDANT releases PLAINTIFFS from any and all claims for attorneys' fees, costs, or sanctions arising from the lawsuit or the appeal.

3. **Severability**

If any clause or provision of this Agreement is found to be void, invalid, or unenforceable, it shall be severed from the remaining provisions and clauses which

shall remain in full force and effect.

4. **Governing Law**

The Parties agree that the laws of the State of Florida shall govern this Agreement in all respects. In the event any action must be instituted for breach of this Agreement, the Parties agree that the sole venue shall be in the Middle District Court for Florida .

5. **Acknowledgments and Affirmations.**

PLAINTIFFS affirm that they have not filed, caused to be filed, or are presently a party to any claim against DEFENDANT except for the Claim.

6. **Non-Defamation.** PLAINTIFFS and DEFENDANT further agree that they will not engage in any activity that is intended to defame or has the result of defaming PLAINTIFFS or DEFENDANT orally or in writing. PLAINTIFFS and DEFENDANT agree not to make, publish, or communicate to any person or entity any statements, whether written or oral, that disparage, defame, or cast in a negative light either PLAINTIFFS or DEFENDANT, its officers, employees, or representatives, regarding the lawsuit, the appeal, the development project, the DEFENDANT'S decision-making process, and/or the settlement. This clause does not restrict truthful statements required by law or testimony under oath.

7. **No-Precedent Clause**

The Parties agree that this Agreement is the result of a unique compromise, it shall not be construed as an admission of liability, and it shall not be cited or used

as precedent in any other matter, administrative proceeding, or litigation except as necessary to enforce its terms.

8. **Miscellaneous**

A. The Parties expressly agree, acknowledge and warrant that they have read carefully and fully understand all provisions of this Agreement and that they are entering into this Agreement of their own free will and with the advice of their attorneys. The Parties represent that they voluntarily enter into this Agreement with the intent to be bound thereby and they have not been coerced or induced by anyone to enter into this Agreement. The Parties acknowledge that they have read and fully understand the Agreement's terms, conditions, meaning and intent, including, but not limited to, the final binding effect of the General Release.

B. This Agreement constitutes the entire agreement between the Parties, and no other promises or agreements shall be binding unless signed by all Parties. All prior representations regarding the Agreement are hereby expressly disclaimed by all Parties unless incorporated herein.

C. All Parties shall take such further action and shall execute and deliver such further documents as may be reasonably requested by the other Party in order to carry out the provisions and purposes of this Agreement.

D. The recitals are incorporated herein by reference.

E. Each signatory represents that they have full authority to execute this Agreement on behalf of the Party they represent.

F. This Agreement may be executed in counterparts, including electronically, each of which shall be deemed an original.



SCOTT CULP

Representative for ATLANTIC HOUSING PARTNERS L.L.L.P., CANTON CONSTRUCTION, LLC, CONCORD MANAGEMENT, LTD., THE VENUE AT HERITAGE OAKS PARTNERS, LTD.

Date: May 12, 2026

STATE OF FLORIDA
COUNTY OF Orange

Before me, the undersigned officer, authorized to administer oaths and take acknowledgments, personally appeared SCOTT CULP who after being duly sworn, deposes and says: That he fully understands the above and foregoing.

SWORN TO AND SUBSCRIBED before me this 12 day of May, 2026.

Shannon M. Marshall

Notary Public (signature)

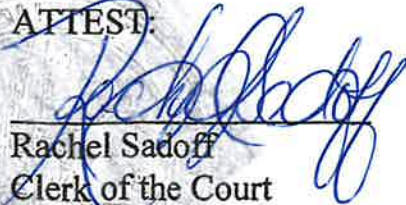
Notary Public (type, print stamp commission)

My Commission Expires: _____

- ☒ Personally Known OR
- ☐ Produced Identification
- ☐ Type of Identification Produced: _____



ATTEST:


Rachel Sadoff
Clerk of the Court

BREVARD COUNTY


Thad Altman, Chair

Brevard County Board of County Commissioners
As approved by the Board on April 21, 2026

