



September 22, 2021

M E M O R A N D U M

TO: Commissioner Bryan Lober, District 4

RE: Item F.4., Rental Assistance Program with Litigation against Brevard County

The Board of County Commissioners, in special session on September 21, 2021, authorized staff to exclude from the Rental Assistance Program those individuals who are actively engaged in litigation against Brevard County, as well as those who have sent a formal demand letter and/or notice of intent to file suit against Brevard County since the enacting of the Local State of Emergency on or about March 15, 2020; authorized exclusion is intended to apply to the tenants, not the landlords, and as permitted with the Small Business Grant Program, a tenant may self-certify that he or she complies with these requirements; authorized the County Attorney's Office to export a list of plaintiffs involved in pending litigation against Brevard County and provide it to the Housing and Human Services Department; and authorization shall not serve to require staff perform additional due diligence and is intended to be utilized only when a tenant's name appears on the list of plaintiffs and when staff is aware an individual is disqualified for one or more of the specified reasons.

Your continued cooperation is greatly appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

/ds

cc: Housing and Human Services
County Manager
County Attorney
Finance
Budget



Bryan A. Lober, Commissioner, District 2
2575 N. Courtenay Pkwy, Suite 200
Merritt Island, FL 32953

Telephone: (321) 454-6601
Fax: (321) 454-6602
www.brevardfl.gov
D2.Commissioner@brevardfl.gov

September 21, 2021

** Via Electronic Mail **

Memo Discussing Issue Coming before BoCC on Tuesday, September 21, 2021

This memorandum does not solicit feedback from any Commissioner and Commissioners are specifically asked not to respond to it (or discuss it amongst one another outside of a duly noticed BoCC meeting) as doing so could and likely would constitute a violation of one or more provisions of Chapters 119 and/or 286, Fla. Stat. So that it may be made available to the public, a copy of this memo is being provided to the Clerk to the Board so that it may be included in the minutes for the **Tuesday, September 21, 2021** BoCC meeting. Please see the previously provided County Attorney's Office Inter-Office Memo dated December 12, 2016 which indicates that communications of this variety are authorized under applicable law.

Please be advised I intent to make the following motion during board reports this evening. This memo is being sent solely to allow you additional time to consider the motion and perform any due diligence you may wish.

Motion

Yesterday, an issue was brought to my attention by staff which I believe must be addressed as soon as possible.

When the BOCC initially put in place the small business grant program, using CARES funds, the BOCC wisely incorporated much or all of my suggested language excluding, from the program, businesses which were engaged in litigation against Brevard County as well as those who had unpaid debts to Brevard County (often in the form of code enforcement liens).

Unfortunately, similar language was not included in the rental assistance program as it was inadvertently never proposed. While I believe we may wish to be more lenient to those seeking rental assistance with respect to owing funds to Brevard County (especially with respect to overdue utilities payments), I do not believe we should fund anyone who is highly likely to use those funds, directly or indirectly, to sue Brevard County and, by extension, cost taxpayers doubly.

Even with the safety of requiring payment be made solely to the landlord (not the tenant), funds which may have otherwise been used to pay rental costs could then be

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used to fund a lawsuit against Brevard County. This is all the truer for those who understate their income and/or assets to obtain approval.

As such, we should incorporate, at a very minimum, a similar exclusion with respect to those in the process of suing Brevard County to exclude them from participation in the rental assistance program.

To the extent permissible pursuant to applicable law, I move to authorize staff to exclude from the rental assistance program those individuals who are actively engaged in litigation against Brevard County as well as those who have sent a demand letter and/or notice of intent to file suit against Brevard County since the enacting of the Local State of Emergency on or about March 15, 2020. For clarity's sake, this exclusion is intended to apply to the tenants, not the landlords. Moreover, as we permitted with the small business grant program, a tenant may self-certify that he or she complies with these requirements.

As was the case with the small business grant program, should staff learn that a certification was falsely made, the matter may be referred to the State Attorney's Office to review for prosecution.

While the County Attorney's Office (hereinafter "CAO") has advised me that it is simple to export a list of plaintiffs involved in pending litigation against Brevard County (which may easily be provided to the Housing and Human Services Department in a text searchable spreadsheet), this authorization shall not serve to require staff perform additional due diligence and is intended to be utilized only when (1) a tenant's name appears on the list of plaintiffs provided by the CAO and/or (2) when staff is otherwise aware that an individual is disqualified for one or more of the above specified reason(s).