



Board of County Commissioners Agenda Request 19

Date of Meeting: October 31, 2000

Date Submitted: October 26, 2000

To: Honorable Chairman and Members of the Board
 From: Herbert W. A. Thiele, Esq. County Attorney
 Subject: Consideration of a Settlement Proposal from Johnny Petrandis Regarding
 Foreclosure of Code Enforcement Board Case 97-023

Statement of the Issue:

The County Attorney's Office is in receipt of a settlement proposal in a case foreclosing a Code Enforcement Board lien in Case Number 97-023.

Background:

The Code Enforcement Board heard Case Number 97-023 on June 19, 1997. This case cited J.G. Petrandis and J.G. Petrandis Jr., for placing approximately 160 loads of fill and performing development activities without an Environmental Management Permit on property at Chateau and Chandalar Streets. The Code Enforcement Board ordered the Respondents to correct the violation by obtaining an After-the-fact Mitigation Permit to remove the fill within 5 days of the order, exclusive of review time; by implementing the requirements and conditions of the permit within 15 days; and by obtaining an Affidavit of Compliance. A fine was set at \$250.00 per day. Mr. Petrandis met with staff in August of 1997 and indicated that he wanted to keep the fill in order to facilitate construction of approximately 14 dwellings. Although the Code Enforcement Board had ordered that the fill be removed, staff was willing to allow Mr. Petrandis to leave some of the fill if the property was buildable. Mr. Petrandis went through permitting so that the fill could remain on site. Mr. Petrandis revised the plan twice and after a second permit was issued which allowed the fill to remain on site in connection with construction of dwelling units, and the permit requirements were almost completed, 40 additional loads of fill appeared on the site, which were not permitted. Mr. Petrandis indicated that he had wanted to use the fill for driveways or septic tanks, but the fill is not suitable for such uses and Mr. Petrandis was told to remove the 40 loads. Half of the fill has been removed, but the remaining 20 loads have not been removed and have been spread out on the site, which renders the site not in compliance with the "as built" for the permit Mr. Petrandis had obtained. After much communication between staff and Mr. Petrandis, the site was finally brought into compliance on August 14, 2000. As of the date of compliance, the fine had accrued to \$277,250.

During the period that Mr. Petrandis was attempting to come into compliance, the Code Enforcement Board directed the County Attorney's Office to foreclose on the lien filed in the case. The Complaint for Foreclosure of the Code Enforcement Board lien was filed December 17, 1999. On February 14, 2000, Defendants filed a Motion to Dismiss the Complaint for Foreclosure. Judge Clark considered the Defendants' Motion to Dismiss on March 28, 2000, and found that a certified copy of the Code Enforcement Board lien should have been filed in the Official Records, rather than the original lien which was filed. Once we were aware that the Defendants were going to make the argument that filing

the original lien was insufficient, we went ahead and filed a certified copy of the lien on March 6, 2000. Chapter 162 (the Code Enforcement Board statute) requires that three months pass from the time the certified copy of the lien is filed in the official records before the Code Board can authorize the County Attorney's Office to foreclose. Judge Clark dismissed the foreclosure action without prejudice to refile once the three months pass. A Complaint for Foreclosure of the Code Enforcement Board lien was filed June 29, 2000.

Mr. Claude Walker, attorney for Mr. Petrandis, submitted a settlement proposal to the County Attorney's Office by letter dated September 21, 2000, which is attached as Attachment 1.

Once the Code Enforcement Board directs the County Attorney's Office to pursue foreclosure, the case is no longer before the Code Enforcement Board and consideration of settlement proposals is the responsibility of the Board of County Commissioners. However, whenever possible, the County Attorney's Office agreed to provide the Code Enforcement Board an opportunity to review and provide comments on any settlement proposals received and to forward any Code Enforcement Board comments to the Board of County Commissioners when the Board of County Commissioners considers such settlement proposals. On October 19, 2000, the Code Enforcement Board reviewed the settlement proposal and provided feedback on it, indicating that the settlement proposal should be rejected and that the \$2,500.00 fine was totally unacceptable based on Mr. Petrandis' unwillingness to work with staff to resolve the issue in a timely manner. There were several Code Board members who expressed their opinion that even the \$15,000 fine that staff was suggesting was also extremely inadequate.

Analysis:

As outlined in the settlement proposal, Mr. Petrandis offers to pay a fine of \$2,500 in return for a satisfaction of lien. In addition, Mr. Petrandis would be making a claim for his attorney's fees incurred in the foreclosure actions, to be determined by the Court.

Staff makes the following recommendations regarding the settlement proposal presented:

The request for attorney's fees should be rejected. While the Court did dismiss the first complaint for foreclosure, it did so on the basis of a technical deficiency, which had been corrected before the dismissal. Mr. Petrandis was not a prevailing party entitled to attorney's fees because the merits of the foreclosure action had not been determined.

The proposed fine of \$2,500 should be rejected. Staff suggests that the fine be set at \$15,000, based on the staff time invested in this case, which is estimated at approximately \$13,200. The chronology of events, attached as Attachment 2, outlines the enormous amount of staff time involved in bringing this case into compliance.

This case has been going on since February 1997, during which time Mr. Petrandis made every effort conceivable to extend the time required to bring this process/issue to a close. Upon being instructed both verbally and in writing, in our office and on-site many times as to how to adequately, rapidly and easily provide a submittal that would resolve outstanding violation issues, Mr. Petrandis would with considerable delay, respond in an inadequate manner. Then immediately after providing a submittal, Mr. Petrandis would act as if it was an absolute emergency that staff review and approve his submittal. This cycle has been repeated almost endlessly since February 1997.

Mr. Petrandis and his associates repeatedly acted as though they were totally ignorant of all of the County's environmental rules and procedures. They continually asked the most basic of questions about rules and procedures. There are rules and procedures of which they, as long experienced developers and real estate operatives in Leon County, could not possibly be ignorant. The exact same questions were asked again and again. Throughout the process, Mr. Petrandis consistently ignored simple instructions that were given to him repeatedly, verbally and in writing.

Mr. Petrandis consistently refused to comply with simple details to the point that staff, in order to finally bring about closure and stop wasting expensive staff time, would do the work for him.

Mr. Petrandis submitted documents that he should have known were inadequate or incomplete, or that were false and incorrect. In addition, he would resubmit documents that had been rejected in a previous permitting cycle. In the same permitting/review cycle, Mr. Petrandis would send multiple sets of conflicting documents to the County's various regulatory sections. This required resubmittals until all documents were consistent.

Mr. Petrandis was wasteful of staff time by calling for follow up on-site inspections when no new work had been performed. He also clogged the office fax machine with 87 copies of the same single page document. Further, Mr. Petrandis was at times verbally abusive to staff.

Options:

1. Reject the settlement proposal as presented by Petrandis.
2. Accept the settlement proposal as presented by Petrandis.
3. Provide direction to staff.

Recommendation:

Option 1.

Attachments:

1. Settlement Proposal by Petrandis
2. Chronology prepared by Growth and Environmental Management Staff

