

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: March 1, 2022

DEPARTMENT: City Attorney

TITLE:

Stipulation of Dismissal in lawsuit brought by Gulf Stream of Lake Worth Condominium Association, Inc.

SUMMARY:

The proposed Stipulation of Dismissal will resolve the lawsuit brought by the Gulf Stream of Lake Worth Condominium Association, Inc., against the City of Lake Worth Beach.

BACKGROUND AND JUSTIFICATION:

On October 9, 1988, the City abandoned the 10-foot wide platted alleyway that runs north to south between the parcels owned by HH Gulfstream Land Holdings, LLC, the owner of the Gulfstream Hotel (“Hotel”). The abandoned alleyway is generally located just west of 1 Lake Avenue and runs the distance of the Hotel’s property. In exchange for the abandonment, the then-owner of the Hotel granted the City an easement “for the passage of vehicular and pedestrian traffic, together with the customary uses attendant thereto, including drainage and utilities” for the alleyway. The Hotel’s grant of easement states that the easement shall continue to exist until the City Commission holds a public hearing to abandon the easement following at least fifteen (15) days’ public notice to all persons owning property within two (200) hundred feet of the alleyway. If the easement is abandoned by the City, the easement reverts back to the owner of the Hotel.

In June 2021, the City and Restoration St. Louis, Inc., entered into a Letter of Intent wherein the City agreed to consider releasing the easement as part of Restoration St. Louis, Inc.’s redevelopment of the Hotel.

On October 4, 2021, the Gulf Stream of Lake Worth Condominium Association, Inc. (“Association”), filed a lawsuit against the Hotel owner and the City of Lake Worth Beach. The Association is seeking a prescriptive easement over three (3) parking spaces on the Hotel’s property which allegedly have been utilized by the Association for years. The Association is also seeking a prescriptive easement over the alleyway that runs between the Hotel’s parcels, which the Association claims it has used for years. The Association is seeking declaratory relief against the City with regards to the City’s easement rights over the alleyway.

The City’s outside counsel coordinated with the counsel for the Association to prepare the attached stipulation of dismissal. The stipulation provides for a dismissal of the lawsuit against the City with prejudice with each party paying its own incurred attorney’s fees. The stipulation documents the fact that the City has not yet abandoned the easement and, that if the City is going to pursue abandonment of the easement, the City will need to comply with the notice and public hearing requirements in the grant of easement. The attorneys for the Hotel have reviewed the stipulation and do not have any objections to the same. If the stipulation is approved, the

City's outside counsel will sign the stipulation on behalf of the City and the same will be filed with the court.

MOTION:

Move to approve / not approve Stipulation of Dismissal in lawsuit brought by Gulf Stream of Lake Worth Condominium Association, Inc.

Fiscal Impact Analysis – N/A
Stipulation of Dismissal
Grant of Easement