



Legislation Text

File #: 22-5669, Version: 1

**ITEM: AUTHORIZATION TO PROCEED WITH FORECLOSURE OF LIEN AGAINST PALM BEACH POLO, INC. ARISING FROM CODE COMPLIANCE CASE NO: 15-3902 (THE “DOG PARK CASE”)**

**REQUEST:** Authorization to proceed with foreclosure of lien against Palm Beach Polo, Inc. arising from Code Compliance Case No. 15-3902 (the “Dog Park Case”).

**EXPLANATION:** In January 2016, the Wellington Special Magistrate found Palm Beach Polo, Inc. in violation of Wellington’s Code of Ordinances for the illegal subdivision of a parcel of land located within the Palm Beach Polo community and referred to as the “dog park.” The Order Imposing Penalty/Lien was recorded in the Public Records of Palm Beach County, Florida and became a lien on the property on April 27, 2016. By the time the violation had been cured by Palm Beach Polo, the lien had grown to 446,608.87.

In February, 2020, following a request by Palm Beach Polo to reduce the fine, the Special Magistrate reduced the fine from \$446,608.67 to \$89,808.67. The \$89,808.67 is currently being held in escrow.

Palm Beach Polo appealed the fine reduction, alleging a number of arguments, including that the fine was unconstitutionally excessive. Wellington filed a cross appeal alleging that the Special Magistrate lacked subject matter jurisdiction to reduce the fine once it became a lien on the property by recording it in the public records. On April 18, 2022, the Circuit Court issued its opinion in favor of Wellington and Polo filed a petition for writ of certiorari. An order denying the petition for writ of certiorari was entered by the Fourth District Court of Appeal on December 6, 2022. A motion for rehearing is currently pending.

Pursuant to section 162.09, Florida Statutes, after three months from the filing of any such lien which remains unpaid, the Special Magistrate may authorize the Village Attorney to foreclose on the lien.

The Village Attorney is seeking authorization to move forward with a foreclosure of the lien. If authorized, the matter will be brought before the Special Magistrate for an order authorizing foreclosure of the lien, as required by Chapter 162.7.

**BUDGET AMENDMENT REQUIRED:** NO

**PUBLIC HEARING:** NO                      **QUASI-JUDICIAL:**

**FIRST READING:**                              **SECOND READING:**

**LEGAL SUFFICIENCY:** YES

**FISCAL IMPACT:** Attorneys’ fees may be incurred and are recoverable as part of any final judgment of foreclosure entered by the court.

**WELLINGTON FUNDAMENTAL:**              Responsive Government

**RECOMMENDATION:** Authorization to proceed with foreclosure of lien against Palm Beach Polo, Inc.

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