

OFFICE OF THE CITY ATTORNEY

City of Miami Beach

F L O R I D A



JOSE SMITH
City Attorney

Telephone: (305) 673-7470
Facsimile: (305) 673-7002

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower
Members of the City Commission
City Manager Jorge M. Gonzalez

DATE: November 5, 2008

FROM: Jose Smith, City Attorney

SUBJECT: City Attorney's Status Report

I. LAWSUITS FILED BY OR AGAINST THE CITY OF MIAMI BEACH SINCE THE LAST REPORT

1. American Home Mortgage Servicing vs. Miguel Rios, et. al, Case No. 08-57690 CA 02 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1732 Meridian Avenue, Unit 403, Miami Beach, Florida. The Summons and Complaint were served on the City on September 30, 2008.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was timely filed

2. Dora Sanchez-Diaz v. City of Miami Beach, Case No. 08-57768 CA 23 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

The City was served with this lawsuit on October 1, 2008, wherein the plaintiff alleges that on 8/26/06, she was walking on the sidewalk of the 950 block and Normandy Drive, slipped on a raised tile near the fountain and fell fracturing her left wrist and grazing her left knee. The City has filed its answer and affirmative defenses on October 27, 2008 and also propounded discovery on the same date.

3. Seacoast 5700 Condominium vs. Frama Inc., et. al, Case No. 08-57908 CA 05 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a condominium lien on real property located at 5700 Collins Avenue, Unit 11 A, Miami Beach, Florida. The Summons and Complaint were served on the City on September 29, 2008.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was timely filed.

4. Aurora Loan Services vs. Jose Mondeja et. al, Case No. 08-59304 CA 04 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 620 84th Street, Unit 24, Miami Beach, Florida. The Summons and Complaint were served on the City on October 6, 2008.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was timely filed.

5. Deutsche Bank National Trust vs. Andres Felipe Aguirre, et. al, Case No. 08-57351 CA 05 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 2750 SE 16th Avenue, Homestead, Florida. The Summons and Complaint were served on the City on October 6, 2008.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was timely filed.

6. Deutsche Bank National Trust vs. Martin A. Maya, et. al, Case No. 08-58813 CA 23 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 450 Alton Road, #1106, Miami Beach, Florida. The Summons and Complaint were served on the City on October 8, 2008.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was timely filed.

7. Countrywide Home Loans vs. Zoila Suarez, et. al, Case No. 08-59957 CA 24 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 11283 SW 230 Terrace, Miami, Florida. The Summons and Complaint were served on the City on October 8, 2008.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was timely filed.

8. Residential Funding Corporation vs. Nicolas Mainella, et. al, Case No. 08-60388 CA 08 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 6039 Collins Avenue, Unit 1505, Miami Beach, Florida. The Summons and Complaint were served on the City on October 13, 2008.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was timely filed.

9. Deutsche Bank Trust Company vs. Joel L. Fries, et. al, Case No. 08-60111 CA 13 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 14800 SW 104 Place, Miami, Florida. The Summons and Complaint were served on the City on October 10, 2008.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was timely filed.

10. Regions Bank vs. Trust Investments of So. Fla. Inc., et. al, Case No. 08-61217 CA 22 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 8535 Byron Avenue, Miami Beach, Florida. The Summons and Complaint were served on the City on October 14, 2008.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was timely filed.

11. Bayview Loan Servicing, LLC vs. Jose L. Lopez et. al, Case No. 08-58831 CA 09 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at, 12063 SW 131 Avenue, Unit 12063, Miami, Florida. The Summons and Complaint were served on the City on October 15, 2008.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

12. Roberto Rothenberg and Helene Rothenberg v. State of Florida Department of Transportation and Florida Power & Light Company, Miami-Dade County and City of Miami Beach, Case No. 06-9517 CA 30 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

The City was served with this lawsuit on October 16, 2008, wherein the plaintiff alleges that on November 27, 2004, he was walking on a sidewalk going west on 65th Street off Collins Avenue in Miami Beach when he tripped and fell over a metal pipe that was protruding from the sidewalk causing right wrist and right elbow pain. The City will be filing a timely answer and affirmative defenses and thereafter file a motion for summary judgment as the location of the incident is a Florida Department of Transportation street and sidewalk and not City owned, maintained or controlled.

13. The Bank of New York vs. Mark Perun., et. al, Case No. 08-42336 CA 13 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1605 Daytonia Drive, Miami Beach, Florida. The Summons and Complaint were served on the City on July 30, 2008.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on October 21, 2008.

14. Commonwealth United Mortgage vs. Israel Perez, et. al, Case No. 08-61617 CA 21 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 968 NE 41 Place, Homestead, Florida. The Summons and Complaint were served on the City on October 21, 2008.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

15. National City Mortgage vs. Fernando Gonzalez, et. al, Case No. 08-61612 CA 15 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 5601 Collins Avenue, Unit 423, Miami Beach, Florida. The Summons and Complaint were served on the City on October 21, 2008.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

16. Executive National Bank vs. American Development, LLC, et. al, Case No. 08-63472 CA 02 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at, 1995 Bay Drive, Miami Beach, Florida. The Summons and Complaint were served on the City on October 22, 2008.

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

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