

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: January 28, 2009

FROM: Jose Smith, City Attorney

SUBJECT: City Attorney's Status Report

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

1. Jon Brockwell vs. Ran, LLC, et. al, Case No. 08-63584 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 810 7th Street, Miami Beach, Florida. The Summons and Complaint were served on the City on October 31, 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 November 24, 2008.

2. Mario Tarricone v. City of Miami Beach, Case No. 08-73270 CA 20 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

The City was served with this complaint on December 03, 2008 alleging that on April 23, 2007, the plaintiff, Mario Tarricone, fell on the sidewalk in front of 929 Washington Avenue as a result of a broken and uneven section on the sidewalk. The plaintiff is alleging a fracture of the fifth metatarsal of the small toe of his left foot. We shall be filing our timely answer and propounding discovery.

3. Deutsche Bank vs. George Peralta, et. al, Case No. 08-74026 CA 06 (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 1016 71st Street, Apartment 106, Miami Beach, Florida. The Summons and Complaint were served on the City on December 4, 2008.

Agenda Item A

Date 1-28-09

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 January 2, 2009.

4. Regions Bank vs. Unknown Heirs of Irving Shalom, et. al., Case No. 08-73814 CA 31 (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 1145 Normandy Drive, Unit 304, Miami Beach, Florida. The Summons and Complaint were served on the City on December 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 filed on December 24, 2008.

5. The Bank of New York vs. Daniel A. Gonzalez, et. al., Case No. 08-74114 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 6988 SW 147 Place, Miami, Florida. The Summons and Complaint were served on the City on December 9, 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 December 24, 2008.

6. Greenpoint Mortgage Funding, Inc. vs. Richard M. Schaffer, et. al., Case No. 08-74155 CA 25 (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 1751 Washington Avenue, Unit 4-G, Miami Beach, Florida. The Summons and Complaint were served on the City on December 9, 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 December 24, 2008.

7. Asset Acceptance Corp. vs. Eduardo J. Macias and City of Miami Beach, Case No. 02-13381 COWE (County Court – 17th Judicial Circuit in and for Broward County, Florida)

The City was served with a continuing writ for garnishment against salary or wages on December 9, 2008.

The City's Answer to the continuing writ of garnishment against salary was filed on December 17, 2008.

8. JPMorgan Chase Bank vs. Jose M. Flores, et. al, Case No. 08-76994 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 110 Royal Park Way, A15, Miami, Florida. The Summons and Complaint were served on the City on December 12, 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 December 31, 2008.

9. The Bosch Group, Inc. v. City of Miami Beach Case No. 08-75978 CA 05 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action for declaratory judgment with regard to a request for public records. The city has responded to the request and the parties are working toward a resolution of this case.

10. U.S. Bank National Association vs. Isabel M. De La Rionda, et. al, Case No. 08-76756 CA 03 (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 1200 West Avenue, #615, Miami Beach, Florida. The Summons and Complaint were served on the City on December 12, 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 January 2, 2009.

11. National City Bank vs. Pedro Luis Morales, et. al, Case No. 08-75999 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 6039 Collins Avenue, Unit 622, Miami Beach, Florida. The Summons and Complaint were served on the City on December 12, 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 January 2, 2009.

12. Countrywide Home Loans, Inc. vs. Alexander L. Lopez, et. al, Case No. 08-74414 CA 06 (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 7360 SW 82nd Street, Apt. E-105, Miami, Florida. The Summons and Complaint were served on the City on December 12, 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 December 31, 2008.

13. Deutsche Bank National Trust Company vs. Daniel Gonzalez, et. al, Case No. 08-44801 CA 10 (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 425 East Dilido Drive, Miami Beach, Florida. The Summons and Amended Complaint were served on the City on December 12, 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 December 24, 2008.

14. U.S. Bank National Association vs. Homero F. Meruelo, et. al, Case No. 08-76221 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 5131 Fisher Island Drive, 5131, Miami, Florida. The Summons and Complaint were served on the City on December 12, 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 January 2, 2009.

15. Wells Fargo Bank, N.A. vs. Alejandro Maya, et. al, Case No. 08-77032 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 1975 Normandy Drive, #305, Miami Beach, Florida. The Summons and Complaint were served on the City on December 17, 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 December 31, 2008.

16. Flagstar Bank, FSB vs. Carlos E. Castro, et. al, Case No. 08-77731 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 16941 Bay Drive, #C-5, Miami Beach, Florida. The Summons and Complaint were served on the City on December 17, 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 December 31, 2008.

17. US Bank National Association vs. Rosa Maria Gonzalez, et. al, Case No. 08-77012 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 2467 NW 104 Street, Miami, Florida. The Summons and Complaint were served on the City on December 17, 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 January 5, 2009.

18. EverHome Mortgage Company vs. Berta S. Rivera, et. al, Case No. 08-76654 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 7420 W 20th Avenue, #432, Hialeah, Florida. The Summons and Complaint were served on the City on December 17, 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 January 7, 2009.

19. National City Bank vs. Beverly J. Tarnow, et. al, Case No. 08-77791 CA 27 (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 819 2nd Street, Miami Beach, Florida. The Summons and Complaint were served on the City on December 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 was filed on January 7, 2009.

20. Amtrust Bank vs. Nestor Moreno, et. al, Case No. 08-78295 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 1334 Euclid Avenue, #10, Miami Beach, Florida. The Summons and Complaint were served on the City on December 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 was filed on January 13, 2009.

21. Countrywide Home Loans Servicing, LP. vs. Carlos Godefroy, et. al, Case No. 08-077689 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 7211 W 24th Avenue, Apt. 2279, Hialeah, Florida. The Summons and Complaint were served on the City on December 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 was filed on January 13, 2009.

22. U.S. Bank, N.A. vs. Richard Schaffer, et. al, Case No. 08-77443 CA 30 (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 1717 N. Bayshore Drive, #A-2240, Miami, Florida. The Summons and Complaint were served on the City on December 19, 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 January 8, 2009.

23. Club Madonna, Inc. v. City of Miami Beach, et al., Case No. 08-23469-CIV-Huck/O'Sullivan, U.S. District Court for the Southern District of Florida.

In a six count complaint filed in federal court against the City and certain named defendants, plaintiff alleges that the City's adult entertainment ordinances prohibiting the sale of alcohol at establishments that permit total nudity are unconstitutional, and that certain actions taken with respect to amendments being considered to those ordinances were also unconstitutional. The City Attorney's Office believes the claims are without merit and will be filing a motion to dismiss.

24. Ludwig Schop, et. al., vs. The Palms, LLC, et. al, Case No. 08-74773 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 2301 534 Washington Avenue, Miami Beach, Florida. The Summons and Complaint were served on the City on December 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 January 16, 2009.

25. Wells Fargo Bank, N.A., et. al., vs. The Unknown Heirs of Emilio Fernandez, et. al, Case No. 09-001596 CA 31 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 20922 SW 121 Avenue, Homestead, Florida. The Summons and Complaint were served on the City on January 5, 2009.

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.

26. CitiMortgage, Inc. et. al., vs. Antonio Rodriguez, et. al, Case No. 08-81042 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 2730 W 63 Place, #104, Hialeah, Florida. The Summons and Complaint were served on the City on January 5, 2009.

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.

27. Deutsche Bank National Trust, etc., et. al., 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 16 Avenue, Homestead, Florida. The Summons and Complaint were served on the City on January 5, 2009.

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.

28. Wells Fargo Bank, N.A. vs. Phillip Morgan, et. al, Case No. 08-31208 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 780 NE 69 Street, #1504, Miami, Florida. The Summons and Complaint were served on the City on January 9, 2009.

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.

29. Wachovia Mortgage vs. Emma M. Morales, et. al, Case No. 08-80556 CA 25 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 1957 SW 17 Street, Miami, Florida. The Summons and Complaint were served on the City on January 5, 2009.

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.

30. Chase Home Finance, LLC vs. Silvestre A. Arredondo, et. al, Case No. 08-80529 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 1610 Lenox Avenue, #408, Miami Beach, Florida. The Summons and Complaint were served on the City on January 5, 2009.

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.

31. Wachovia Mortgage Corporation vs. Manuel Puron, et. al, Case No. 08-80224 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 6039 Collins Avenue, #903, Miami Beach, Florida. The Summons and Complaint were served on the City on January 7, 2009.

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.

32. U.S. Bank National Association vs. Jorge E. Rodriguez, et. al, Case No. 08-81129 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 1260 NW 26 Street, Miami, Florida. The Summons and Complaint were served on the City on January 7, 2009.

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.

33. Bank of America vs. Maricela Rodriguez, et. al, Case No. 09-00116 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 6345 Collins Avenue, #440, Miami Beach, Florida. The Summons and Complaint were served on the City on January 7, 2009.

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.

34. Ocean Point Association, Inc. vs. Reynaldo Perez, et. al, Case No. 08-78981 CA 31 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a claim of lien for condominium assessments on real property located at 345 Ocean Drive, #712, Miami Beach, Florida. The Summons and Complaint were served on the City on January 12, 2009.

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.

35. IndyMac Federal Bank, F.S.B. vs. Enrique Metauten, et. al, Case No. 09-01584 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 1200 West Avenue, #301, Miami Beach, Florida. The Summons and Complaint were served on the City on January 12, 2009.

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.

36. Aurora Loan Services vs. Carlos A. Sanchez, et. al, Case No. 09-01645 CA 31 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 14611 SW 180 Terrace, Miami, Florida. The Summons and Complaint were served on the City on January 12, 2009.

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.

37. Wachovia Bank, N.A. vs. Ruben Sierra, et. al, Case No. 08-81612 CA 11 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, PH-9, Miami Beach, Florida. The Summons and Complaint were served on the City on January 12, 2009.

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.

38. Aurora Loan Services LLC vs. Jose Fernandez, et. al, Case No. 09-1902 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 2835 SE 16 Avenue, #202, Homestead, Florida. The Summons and Complaint were served on the City on January 15, 2009.

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.

39. CitiMortgage, Inc. vs. Esneda Riasco, et. al, Case No. 09-2492 CA 32 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 1120 Pennsylvania Avenue, #108, Miami Beach, Florida. The Summons and Complaint were served on the City on January 15, 2009.

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.

40. Wells Fargo Bank, N.A. vs. Hiram Fernandez, et. al, Case No. 09-3308 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 9801 SW 56 Street, Miami, Florida. The Summons and Complaint were served on the City on January 16, 2009.

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.