



# WEISS SEROTA HELFMAN COLE & BIERMAN

AT THE CROSSROADS OF BUSINESS, GOVERNMENT & THE LAW

## MEMORANDUM

**TO:** Honorable Mayor and Town Council of the Town of Miami Lakes

**FROM:** Matthew Ramenda, Esq. and Haydee Sera, Esq.

**DATE:** July 25, 2017

**RE:** Proposed settlement of *F71-1, LLC and F69-1, LLC v. Town of Miami Lakes* (Case No.: 2016-015279-CA-01) (the “Breach of Contract Lawsuit”) and the following lawsuits (the “Public Records Lawsuits”):  
*F71-1, LLC v. Ceasar Mestre* (Case No.: 2017-006866-CA-01);  
*F71-1, LLC v. Manny Cid* (Case No.: 2017-006887-CA-01);  
*F71-1, LLC v. Tim Daubert* (Case No.: 2017-006885-CA-01);  
*F71-1, LLC v. Tony Lama* (Case No.: 2017-006891-CA-01);  
*F71-1, LLC v. Frank Mingo* (Case No.: 2017-006892-CA-01); and  
*F71-1, LLC v. Nelson Rodriguez* (Case No.: 2017-006900-CA-01)

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### Recommendation:

It is recommended that the Town Council adopt the proposed Resolution approving and ratifying a Settlement Agreement and Release between the Town and F71-1, LLC and F69-1, LLC.

### Background:

On March 28, 2011, the Town Council of the Town of Miami Lakes (the “Town”) adopted Resolution No. 11-883, which approved a Chapter 163, Florida Statutes, Development Agreement (the “Development Agreement”) concerning the future development of certain Property more particularly defined therein as “Parcel A,” “Parcel B,” and “Parcel C,” which Property is generally located at the northeast and northwest corners of NW 154<sup>th</sup> Street and NW 87<sup>th</sup> Avenue.

Pursuant to Sections 9 and 10 of the Development Agreement, the first developer (“First Developer”) of any of the three parcels identified in the Development Agreement is required to complete the following roadway infrastructure improvements (“Roadway Improvements”):

1. construction of an additional southbound left-turn lane at NW 82nd Avenue and

- NW 154th Street;
2. construction of an exclusive westbound right-turn lane at NW 82nd Avenue and NW 154th Street;
3. construction of an exclusive eastbound right-turn lane at NW 82nd Avenue and NW 154th Street;
4. construction of an additional eastbound through lane on NW 154th Street from NW 79th Court to NW 77th Court;
5. construction of an additional southbound left-turn lane at NW 154th Street and NW 79th Avenue; and,
6. construction of an exclusive northbound right-turn lane at NW 138th Street and NW 87th Avenue.
7. completion of construction of NW 154th Street to 60 feet west of NW 89th Avenue prior to issuance of the first building permit, and
8. completion of landscaping of NW 87th Avenue adjacent to its property (including medians).

Parcel A was acquired by Lennar Homes LLC (“Lennar”) who became the “First Developer” under the Development Agreement.

On June 7, 2016, the Town Council, pursuant to Resolution 15-1336 and Ordinance 16-192, adopted a resolution confirming that Lennar could satisfy the Town’s transportation concurrency requirements for the residential development of the Property by paying the applicable mobility fee. Pursuant to Resolution 15-1336 and Ordinance 16-192, the First Developer and the Town have agreed to dispense with the required construction of Item Nos. 1 through 5 of the Roadway Improvements in exchange for the payment by the First Developer of a mobility fee. Item No. 6 of the Roadway Improvements is not within the jurisdiction of the Town. Lennar has agreed to perform and is in the process of completing Item No. 7 of the Roadway Improvements and Miami-Dade County has agreed to perform and is in the process of completing Item No. 8 of the Roadway Improvements.

On June 23, 2016, F71-1, LLC and F69-1, LLC filed a lawsuit against the Town alleging breach of the Development Agreement. The lawsuit is pending in Miami-Dade Circuit Court as *F71-1, LLC and F69-1, LLC v. Town of Miami Lakes* (Case No.: 2016-015279-CA-01) (the “Breach of Contract Lawsuit”).

On March 22, 2017, F71-1, LLC filed six separate lawsuits against the Town Councilmembers alleging violations of Chapter 119, Florida Statutes (Florida’s Public Records Act). The lawsuits are pending in Miami-Dade Circuit Court as follows: *F71-1, LLC v. Cesar Mestre* (Case No.: 2017-006866-CA-01); *F71-1, LLC v. Manny Cid* (Case No.: 2017-006887-CA-01); *F71-1, LLC v. Tim Daubert* (Case No.: 2017-006885-CA-01); *F71-1, LLC v. Tony Lama* (Case No.: 2017-006891-CA-01); *F71-1, LLC v. Frank Mingo* (Case No.: 2017-006892-CA-01); and *F71-1, LLC v. Nelson Rodriguez* (Case No.: 2017-006900-CA-01) (collectively, the “Public Records Lawsuits”). F71-1, LLC later amended the Public Records Lawsuits to include the Town as a defendant.

The Town, F71-1, LLC, and F69-1, LLC are conducting settlement negotiations to resolve the Breach of Contract Lawsuit and the Public Records Lawsuits. It is anticipated that a Settlement Agreement and Release will be presented to the Town Council for consideration and approval at the July 25, 2017 Town Council meeting.

**Attachments:**

1. Resolution
2. Resolution - Exhibit A: Settlement Agreement and Release *(The Settlement Agreement and Release are being finalized. It is anticipated that a Settlement Agreement and Release in substantially the attached form will be presented to the Town Council. If changes are made, the Council will be advised accordingly.)*