

City of Fort Lauderdale

*City Hall
100 N. Andrews Avenue
Fort Lauderdale, FL 33301
www.fortlauderdale.gov*



Meeting Minutes - APPROVED

Tuesday, November 20, 2012

6:00 PM

City Commission Chambers

City Commission Regular Meeting

FORT LAUDERDALE CITY COMMISSION

***JOHN P. "JACK" SEILER Mayor - Commissioner
BRUCE G. ROBERTS Vice Mayor - Commissioner - District I
BOBBY B. DuBOSE Commissioner - District III
ROMNEY ROGERS Commissioner - District IV***

***LEE R. FELDMAN, City Manager
JOHN HERBST, City Auditor
JONDA K. JOSEPH, City Clerk
HARRY A. STEWART, City Attorney***

Meeting was called to order at 6:04 p.m. by Mayor Seiler.

ATTENDANCE ROLL CALL

Present: 4 - Mayor John P. "Jack" Seiler, Vice-Mayor Bruce G. Roberts,
Commissioner Bobby B. DuBose and Commissioner Romney Rogers

Vote Roll Call Order for this Meeting

Commissioner DuBose, Commissioner Rogers, Vice Mayor Roberts, and Mayor Seiler

Invocation

Pastor Velma Wright, The Sanctuary of the Living God

Pledge of Allegiance Led by youths in the audience

Approval of MINUTES and Agenda

12-2547 APPROVAL OF MINUTES - September 18, 2012 and October 2, 2012
Conference Meetings

Motion made by Commissioner DuBose and seconded by Vice Mayor Roberts to approve the minutes of the September 18, 2012 and October 2, 2012 Conference Meetings.

APPROVED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and
Commissioner Rogers

PRESENTATIONS

There were no presentations during this meeting.

Consent Agenda

(CA)

The following items were listed on the agenda for approval as recommended. The City Manager reviewed each item and observations were made as shown. The following statement was read:

Those matters included under the Consent Agenda are self-explanatory and are not expected to require review or discussion. Items will be enacted by one motion; if discussion on an item is desired by any City Commissioner or member of the public, however, that item may be removed from the Consent Agenda and considered separately.

Motion made by Vice Mayor Roberts and seconded by Commissioner Rogers that all Consent Agenda Items be approved as recommended. Roll call showed: AYES: Commissioner DuBose, Commissioner Rogers, Vice Mayor Roberts, and Mayor Seiler. NAYS: None.

CONSENT AGENDA

Approval of the Consent Agenda

Approve the Consent Agenda

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

M-1 12-2423 ADDITION OF COMMUNICATIONS TECHNICIAN NEW CLASS IN TEAMSTERS LOCAL 769 BARGAINING AGREEMENT
APPROVED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

M-2 12-2454 EVENT AGREEMENTS AND RELATED ROAD CLOSINGS: Home for the Holidays, Rio Vista Holiday Party, Cause for Paws, Quarterdeck Dive Bar Holiday Party, City Link Beerfest, Holiday Festival in Old Fort Lauderdale, and Candle Light Thanksgiving.
APPROVED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

M-3 12-2293 TASK ORDER 13 - PROGRESSO, DURRS AND DORSEY-RIVERBEND NEIGHBORHOODS STORMWATER SYSTEM IMPROVEMENTS PHASE I - PRELIMINARY DATA INVESTIGATIONS STUDY - CDM Smith, Inc. - \$18,280
APPROVED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

M-4 12-2297 TASK ORDER 19 - EDGEWOOD NEIGHBORHOOD STORMWATER SYSTEM IMPROVEMENTS PHASE I - PRELIMINARY DATA INVESTIGATIONS STUDY - CDM Smith, Inc. - \$16,110
APPROVED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

M-5 12-2469 AGREEMENT WITH BROWARD COUNTY - AMENDMENT TO NON VEHICULAR ACCESS LINES AND EXPRESSING NO OBJECTION TO PLAT NOTE AMENDMENT - restrict use of new Fire Station 46 driveway to emergency vehicles - south end of Mills Pond Park
APPROVED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

M-6 12-2344 CITY HALL PARKING GARAGE - FIRST AMENDMENT TO OFF STREET PARKING AGREEMENT AND LEASE OF PARKING PERMITS - Tower 101 Associates, LLC - to allow mortgage lender to take the place of owner in the case of foreclosure action
APPROVED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and
Commissioner Rogers

CONSENT RESOLUTION

CR-1 12-2425 CONSOLIDATED BUDGET AMENDMENT TO FISCAL YEAR 2012
BUDGET – APPROPRIATION

ADOPTED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and
Commissioner Rogers

CR-2 12-2528 GRANT ACCEPTANCE AND APPROPRIATION OF GRANT FUNDS - 15th
STREET BOAT LAUNCH AND MARINE COMPLEX REDEVELOPMENT -
\$876,906 from Florida Inland Navigation District Waterways Assistance
Program to reimburse City for up to 40% of Phase II construction cost and
authorize City Manager to execute application on behalf of City

ADOPTED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and
Commissioner Rogers

CR-3 12-2435 LAND LEASE AGREEMENT WITH UNITED STATES OF AMERICA
FOR PARCEL 17 - EXECUTIVE AIRPORT - December 1, 2012 to
November 30, 2013 and increasing annual lease rate to \$103,600 with
four, one-year renewal options - authorizing City Manager to execute
on behalf of City subject to approval of Commission Agenda
Memorandum 12-2408 - U.S. Army Nininger Reserve Center

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and
Commissioner Rogers

PURCHASING AGENDA

PUR-1 12-2348 ONE-YEAR CONTRACT FOR LAW ENFORCEMENT
TRANSCRIPTION SERVICES in the estimated amount of \$101,750
from Globespan Medical, Inc. dba Globespan Transcription and
authorize City Manager or designee to approve all renewal options

APPROVED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and
Commissioner Rogers

PUR-2 12-2379 CONTRACT EXTENSION FOR COMPETITIVE DIVE TEAM AND
INSTRUCTIONAL PROGRAMMING SERVICES from Burgering
Enterprises, Inc. - through August 15, 2013 or until such time
construction begins at Aquatic Complex - \$32,083.31 expense and
\$10,966.69 revenue

APPROVED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and

Commissioner Rogers

- PUR-3 12-2421** CONTRACT FOR DILLARD ELEMENTARY AND DILLARD HIGH SCHOOL SIDEWALK PROJECT - Straightline Engineering Group, LLC - \$72,990
APPROVED
Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers
- PUR-4 12-2424** PURCHASE RESCUE TRANSPORT UNIT in the amount of \$372,390.28 from Hall-Mark Fire Apparatus, Inc.
REMOVED FROM AGENDA
- PUR-5 12-2426** PROPRIETARY PURCHASE - PARKEON PARKING METERS - PARTS, SUPPLIES, COMMUNICATION SERVICES AND EXTENDED WARRANTIES in the estimated amount of \$179,880 from Parkeon, Inc.
APPROVED
Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers
- PUR-6 12-2427** PROPRIETARY PURCHASE - DIGITAL PARKING METERS - PARTS, SUPPLIES AND COMMUNICATION SERVICES in the amount of \$163,040 from Digital Payment Technologies, Inc.
APPROVED
Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers
- PUR-7 12-2433** PURCHASE COMPUTER SOFTWARE AND HARDWARE TO UPGRADE EMAIL SYSTEM AND POLICE DATA CENTER in the amount of \$648,025 from Computer Systems Support, Inc., Software House International, Tegsys, Inc. and Dell Marketing Corporation
APPROVED
Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers
- PUR-8 12-2437** ONE-YEAR CONTRACT EXTENSION FOR JULY 4TH FIREWORKS DISPLAY in the amount of \$82,425 with Pyrotecnico of Florida, LLC
APPROVED
Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

PUR-4 12-2424 PURCHASE RESCUE TRANSPORT UNIT in the amount of \$372,390.28 from Hall-Mark Fire Apparatus, Inc.

The City Clerk announced that this item was removed from the agenda at the request of the City Manager.

RESOLUTIONS

R-1 12-2409 OFFICE OF CITY COMMISSIONER - DISTRICT II - CALLING SPECIAL MUNICIPAL PRIMARY ON JANUARY 15, 2013 AND SPECIAL MUNICIPAL ELECTION ON MARCH 12, 2013 AND SETTING QUALIFYING PERIOD

Vice Mayor Roberts introduced the resolution which was read by title only.

ADOPTED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

In response to Mayor Seiler, the City Clerk indicated that the candidates for the District II Commission seat are Lester Zalewski, Dean Trantalis, Chuck Black, and Charlotte Rodstrom.

R-2 12-2512 BRIDGESIDE SQUARE BEAUTIFICATION/REVITALIZATION SPECIAL ASSESSMENT PROJECT - construction complete, accepted and ready for public use

Vice Mayor Roberts introduced the resolution which was read by title only.

ADOPTED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

R-3 12-2207 QUASI-JUDICIAL - SITE PLAN LEVEL IV DEVELOPMENT PERMIT - RESTAURANT USE WITH OUTDOOR DINING - HUNTER'S BAR - Case 41-R-11A1
Applicant: Las Olas Property Management, LLC
Location: 235-237 Almond Avenue
Zoning: Planned Resort Development PRD
Land Use: Central Beach Regional Activity Center C-RAC

Anyone wishing to speak must be sworn in. Commission will announce any site visits, communications or expert opinions received and make them part of the record.

There being no individuals wishing to speak on this matter, a **motion** was made by Commissioner Rogers and seconded by Vice Mayor Roberts to close the public hearing. Roll call showed: AYES: Commissioner DuBose, Commissioner Rogers, Vice Mayor Roberts, and Mayor Seiler. NAYS: None.

Vice Mayor Roberts introduced the resolution which was read by title only.

ADOPTED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

R-4 12-2410 QUASI-JUDICIAL - VACATION OF 6 FOOT UTILITY EASEMENTS - SISTRUNK GARDENS/NORTHWEST GARDENS IV - Case 10-M-12
Applicant: Housing Authority of the City of Fort Lauderdale
Location: Sistrunk Boulevard and NW 5 Street, East of NW 15 Avenue

Anyone wishing to speak must be sworn in. Commission will announce any site visits, communications or expert opinions received and make them part of the record.

There being no individuals wishing to speak on this matter, a **motion** was made by Vice Mayor Roberts and seconded by Commissioner Rogers to close the public hearing. Roll call showed: AYES: Commissioner DuBose, Commissioner Rogers, Vice Mayor Roberts, and Mayor Seiler. NAYS: None.

Vice Mayor Roberts introduced the resolution which was read by title only.

ADOPTED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

R-5 12-2411 QUASI-JUDICIAL - VACATION OF 35 FOOT UTILITY EASEMENT - SISTRUNK GARDENS/NORTHWEST GARDENS IV - Case 11-M-12
Applicant: Housing Authority of the City of Fort Lauderdale
Location: Sistrunk Boulevard and NW 5 Street, East of NW 15 Avenue

Anyone wishing to speak must be sworn in. Commission will announce any site visits, communications or expert opinions received and make them part of the record.

There being no individuals wishing to speak on this matter, a **motion** was made by Vice Mayor Roberts and seconded by Commissioner Rogers to close the public hearing. Roll call showed: AYES: Commissioner DuBose, Commissioner Rogers, Vice Mayor Roberts, and Mayor Seiler. NAYS: None.

Commissioner DuBose introduced the resolution which was read by title only.

ADOPTED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

R-6 12-2441 APPOINTMENT OF CITY BOARD AND COMMITTEE MEMBERS - see Conference Agenda Item BD-2 (12-2440) for vacancy information

The City Clerk announced the appointees/re-appointees who were the subjects of this resolution:

Cemetery System Board of Trustees

Jimmy Witherspoon (Commissioner DuBose)

Citizens Police Review Board	Marc Dickerman (Mayor Seiler) Kenneth Staab (Vice Mayor Roberts) Roosevelt Walters (Commissioner DuBose) Jim Jordan (Consensus)
Community Appearance Board	Jason B. Blank (Mayor Seiler) Marni Canavan (Mayor Seiler) Tom Catalino (Mayor Seiler) Carol Cappadona (Vice Mayor Roberts) Eric Seidmon (Vice Mayor Roberts) Barbara Van Voast (Vice Mayor Roberts) Ayisah Gordon (Commissioner DuBose) Kenneth Green (Commissioner DuBose) Pamelia Harris (Commissioner DuBose)
Downtown Development Authority	Gregory Durden (Consensus) Dennis F. O'Shea (Consensus)
Economic Development Advisory Board	George Mihaiu (Vice Mayor Roberts) Sheryl Dickey (Commissioner DuBose) Alfred C. Calloway (Commissioner Rogers)
General Employees Retirement System Board of Trustees	Julie K. Cameron (Consensus)
Insurance Advisory Board	Steve Botkin (Consensus) James E. Drake (Consensus) Ted Hess, Sr. (Consensus)
Sustainability Advisory Board	Valerie J. Amor (Mayor Seiler) Robert Caine (Mayor Seiler) Steven Cook (Vice Mayor Roberts) William Goetz (Vice Mayor Roberts) Jim Moyer (Commissioner DuBose)

Vice Mayor Roberts asked the Commission's opinion as to whether the Citizens Police Review Board's requirement for training at the Citizens' Police Academy (CPA) can be waived for a retired police officer. In response to Mayor Seiler, the City Attorney explained that the resolution indicates that a sworn officer does not have to complete the CPA training, but a civilian does. The question is whether it was the legislative intent to have sworn officers who become civilians complete the training. He had advised Vice Mayor Roberts to ask the Commission, as the legislative body, whether their intent was to require CPA training for civilians who have not had police training. Mayor Seiler indicated that is his intent. There was consensus agreement.

In response to Commissioner DuBose, the City Clerk indicated that the District II board and committee members who wish to be reappointed will remain appointed until the District II Commission seat is filled; or the Commission has the option to take action.

Vice Mayor Roberts introduced the resolution which was read by title only.

ADOPTED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and
Commissioner Rogers

PUBLIC HEARINGS**PH-1 12-2300**

MOTIONS - SUBSTANTIAL AMENDMENT TO ANNUAL ACTION PLAN AND RELATED HOUSING OPPORTUNITIES FOR PERSONS WITH HIV/Aids (HOPWA) PROGRAM MATTERS: 1) appropriation of funding for 2013 HOPWA Program awards; 2) funding for Legal Aid legal support services; 3) contract renewal with Groupware Technologies, Inc. for Provide Enterprise System; 4) HOPWA performance indicators; 5) substantial amendment to 2013 Annual Action Plan; 6) City Manager to execute all agreements associated with Annual Action Plan

Funding for Legal Aid legal support services was deferred to Dec 4, 2012

Jonathan Brown, Housing and Community Development Program Manager, highlighted information set forth in Commission Agenda Memorandum (CAM) 12-2300. He announced a correction to the first recommendation set forth on page 1 of CAM 12-2300, that the word "appropriation" should instead be "allocation". In response to Mayor Seiler, the City Attorney advised that he raised a number of issues, including conflicts of interest. He went on to list the conflicts of interest set forth in City Attorney Memorandum 12-0146 (Exhibit 1) which is attached to these minutes. Mayor Seiler pointed out that Legal Aid Service of Broward County, Inc. (Legal Aid) provided a response letter to the City Attorney's memorandum, dated October 5, 2012 (Exhibit 5). A copy of Legal Aid's response letter is attached to these minutes. The issue is whether an agreement can be drafted where Legal Aid agrees not to take cases that create the conflict. The City Attorney thought that could be done before December 4, 2012.

In response to Commissioner Rogers, the City Attorney explained that a contract is in place wherein the City asks the judge to assign a lawyer to those (ordinance violators) who face criminal prosecution and are subject to incarceration; so the judge assigns the lawyer in each of those cases. In most cases, the judge will assign the lawyer whom the City is contracted with. But that adds to the judicial discretion. Mayor Seiler remarked that the City is providing the funding and Legal Aid is taking cases against the City on these issues. But he thought something could be crafted that carves out the conflict. Commissioner Rogers wanted to move forward with that. In response to Vice Mayor Roberts, the City Manager and Mr. Brown confirmed that deferring the proposed funding for Legal Aid will not delay any of the other recommended contracts.

Commissioner DuBose indicated that he had some issues with this matter. He is open to seeing what solution can be reached. He performed his own due diligence and has communicated his position on this matter to Legal Aid. This is a complex issue, and these dollars are precious. Although the (Legal Aid) avenue is desired, the heart of the matter is providing the HOPWA services. He will reserve his opinion to see what solution is produced, and continue to examine the matter. He wanted staff to provide him statistical information regarding the cases involving (conflicts of interest) in terms of which side prevailed. He stressed that these funds must be looked at carefully; and it is problematic if the funds can be used to provide additional housing or tenant vouchers as opposed to conflicting in the legal system.

Mayor Seiler opened the floor for public comment.

Regine Kanzki of the Broward Regional Health Planning Council (BRHPC), expressed gratitude to the Commission and City staff for the opportunity to serve HOPWA, STRUM (Short-Term Rental, Utility and Mortgage Assistance), and PHP (Permanent Housing Placement) clients for the past four years.

Jesse Diner, representing Legal Aid Service of Broward County, Inc., does not believe there is a conflict based upon his review of the City ordinance regarding conflicts of interest and HUD regulations pertaining to conflicts of interest. This is noted in Legal Aid's response letter. Nonetheless, the objective

is to solve the problem. He offered to withdraw anything from the application that is perceived to be a conflict, and read the following prepared statement: Legal Aid will not represent with these HOPWA funds any clients at administrative hearings for termination from HOPWA tenant based rental voucher program which are brought by another HOPWA sub-recipient housing provider. He noted that all of the conflict issues raised in the City Attorney's memorandum related to termination from the HOPWA program and Legal Aid's representation. These funds will be well spent as Legal Aid has always been a good steward of funds. He noted his credentials as Legal Aid's former President and current Chair of the organization's Executive Council.

Patrice Paldino of Legal Aid Service of Broward County, Inc., indicated that Legal Aid and its sister agency, Coast to Coast Legal Aid of South Florida (Coast to Coast), are the only free legal service providers in Broward County. The inclusion of legal services in the HOPWA continuum of care will stretch every dollar spent on the other programs. The HOPWA partner agencies will be better able to meet their objectives to prevent homelessness. Legal Aid will assist clients in eliminating legal barriers to housing stability and collaborate with other HOPWA providers to create individualized plans for housing stability. She elaborated upon HOPWA agencies that continue to send referrals to Legal Aid as well as services that Legal Aid will provide to HOPWA clients. Legal Aid will tailor the approach to meet the legal needs of HOPWA clients. This project will build upon Legal Aid's success through the Ryan White HIV Law Project (Ryan White Project). She reviewed information reflected in a handout. A copy of the handout is attached to these minutes. She asked the Commission to seriously consider this proposal.

Dwayne Dickerson, representing Legal Aid Service of Broward County, Inc., believed that, based on the current proposal, the conflict issue is moot because Legal Aid has eliminated any representation that could pose a conflict regarding the termination administrative hearings. Historically, termination administrative hearings have only comprised about five percent of Legal Aid's services; the other 95 percent is reflected in the handout previously gone over by Ms. Paldino which he also reviewed. In response to Mayor Seiler, Ms. Paldino explained that Legal Aid's tax clinic can help a client resolve a tax issue by either eliminating the debt or by entering the client into an appropriate payment plan that would route money back into the house to help stabilize the housing and family. Mayor Seiler asked why there are two entities, Legal Aid and Coast to Coast. Tony Karrat of Legal Aid Service of Broward County, Inc., explained that legal aid programs in the state were restructured in 2004. There were federal funding restrictions imposed on the dollars received such that those federal funds restricted every other funding source. Therefore, Legal Aid split into two different programs, one had the federal funds and the other did not. Legal Aid and Coast to Coast are separate not-for-profit organizations with an overlapping board of directors. He confirmed that the City's funds will go to Legal Aid and there is a sub-contract for Coast to Coast to provide some family law services. Legal Aid provides most of the legal services in the community, but Coast to Coast provides services in areas that Legal Aid does not. He affirmed for Mayor Seiler that there is no issue with these federal HOPWA funds being passed down to Coast to Coast. Currently, Ryan White Project funds are received. Mr. Brown thought it is a matter of whether Coast to Coast was an applicant in the RFP, though he was not aware of any problems related to the federal funds being passed down. Before staff makes a definitive comment, the City Manager expressed desire to review this and consult with the City Attorney's office.

In response to Commissioner DuBose, Mr. Diner reiterated that Legal Aid would not be in conflict with any HOPWA sub-recipient in termination proceedings. The City Manager remarked that the focus of this discussion has been on the tenant based voucher program, but the City sponsors other HOPWA programs. Therefore, he wanted certainty that Legal Aid will not represent with these HOPWA funds any clients at administrative hearings for termination from any HOPWA program administered by the City, and not just the tenant based rental voucher program. Mayor Seiler suggested this item be approved, except for the second recommendation pertaining to Legal Aid which is to be sent to the City Attorney to draft conflict waiver language. He wanted this item to be brought back on December 4.

There being no other individuals wishing to speak on this matter, a **motion** was made by Vice Mayor Roberts and seconded by Commissioner Rogers to close the public hearing. Roll call showed: AYES: Commissioner DuBose, Commissioner Rogers, Vice Mayor Roberts, and Mayor Seiler. NAYS: None.

Motion made by Commissioner DuBose and seconded by Vice Mayor Roberts to approve the item as amended with the term "appropriation" changed to "allocation" in the first recommendation in Commission Agenda Memorandum 12-2300; and subject to Legal Aid funding being deferred to December 4, 2012, with the proviso that sufficient conflict waiver language is included in that agreement. Roll call showed: AYES: Commissioner DuBose, Commissioner Rogers, Vice Mayor Roberts, and Mayor Seiler. NAYS: None.

APPROVED AS AMENDED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

PH-2 12-2403

FIRST READING OF ORDINANCE AMENDING CODE OF ORDINANCES, CHAPTER 15 AND UNIFIED LAND DEVELOPMENT REGULATIONS, SECTIONS 47-6, 47-18 AND 47-20 - ADULT GAMING FACILITIES AND ELECTRONIC GAMING DEVICES - ESTABLISHING REGULATIONS, LOCATION AND OPERATIONS STANDARDS AND REQUIREMENTS FOR CONDITIONAL REVIEW AND APPROVAL

There being no individuals wishing to speak on this matter, a **motion** was made by Commissioner Rogers and seconded by Vice Mayor Roberts to close the public hearing. Roll call showed: AYES: Commissioner DuBose, Commissioner Rogers, Vice Mayor Roberts, and Mayor Seiler. NAYS: None.

Commissioner Rogers introduced the ordinance which was read by title only.

PASSED FIRST READING

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

PH-3 12-2438

QUASI-JUDICIAL - FIRST READING OF ORDINANCE REZONING TO EXCLUSIVE PARKING USE (XP) - Case 3-ZR-12
From: Residential Single Family/Low Medium Density District (RS-8) and Limited Residential Office (ROA)
Applicant: First Presbyterian Church of Fort Lauderdale
Location: 1224 East Las Olas Blvd
Land Use: Low-Medium

Anyone wishing to speak must be sworn in. Commission will announce any site visits, communications or expert opinions received and make them part of the record.

Mayor Seiler opened the floor for public comment.

Robert Lochrie, representing the Applicant, elaborated upon the two-year collaborative process which led to the proposed project. This revised project was supported by the Colee Hammock Homeowners Association (Association) when it was brought back to the Planning and Zoning Board in September,

2012. He reviewed slides concerning this matter. A copy of the slides is attached to these minutes. He noted the proposed property's location which is set forth in the ordinance (Exhibit 3 of Commission Agenda Report 12-2438). The requested zoning change is from Residential Single Family/Low Medium Density District (RS-8) and Limited Residential Office (ROA) to Exclusive Use Parking (XP). The commercial area just north of the portion being rezoned is being used as the family center. The 30,000 square foot family center has been moved to Las Olas with an additional 7,000 square feet of retail. The proposed rezoning is consistent with neighboring properties. He noted that the 321 building (321 SE 15 Avenue) will be preserved. The remainder of the property which is to be rezoned will be paved and enhanced with drainage, landscaping, a plaza to the west, and sidewalks connecting the entire area. Further, the B-1 (Boulevard Business) zoned portion of the project is being developed consistent with that zoning. The family center will be architecturally consistent with the other church properties. He elaborated upon features of the family center and the retail portion. This project will connect the east and west sides of Las Olas and bring more activity to the area. He mentioned that there is another cottage just west of the 321 building that the Applicant wishes to relocate to east of 15th if the church use can be maintained, and with the City's approval. The (Association) has supported the request.

There being no other individuals wishing to speak on this matter, a **motion** was made by Commissioner Rogers and seconded by Vice Mayor Roberts to close the public hearing. Roll call showed: AYES: Commissioner DuBose, Commissioner Rogers, Vice Mayor Roberts, and Mayor Seiler. NAYS: None.

Commissioner Rogers and Mayor Seiler expressed gratitude for the efforts and compromise put forth for this project.

Commissioner Rogers introduced the ordinance which was read by title only.

PASSED FIRST READING

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

PH-4 12-2408 RESOLUTION - ESTABLISHING MINIMUM ANNUAL LEASE RATES AND ADOPTING REAL ESTATE BROKERAGE COMMISSION POLICY FOR PROPERTY AVAILABLE FOR LEASE AT EXECUTIVE AIRPORT

There being no individuals wishing to speak on this matter, a **motion** was made by Vice Mayor Roberts and seconded by Commissioner Rogers to close the public hearing. Roll call showed: AYES: Commissioner DuBose, Commissioner Rogers, Vice Mayor Roberts, and Mayor Seiler. NAYS: None.

Vice Mayor Roberts introduced the resolution which was read by title only.

ADOPTED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

In response to Mayor Seiler, the City Manager confirmed that the lease rates are mandated by the FAA (Federal Aviation Administration), and the City must get fair market value for the property. This resolution which defines fair market value was approved by the FAA.

ORDINANCES

- O-1 12-2480** SECOND READING OF ORDINANCE AMENDING PAY PLAN BY ADDING SPECIAL PAY PRACTICES - providing maximum 6.14% salary differential for non-classified employees enrolled in City's 401 (a) Defined Contribution Plan - hired before August 1, 2012 and in City's employ on effective date of this ordinance

Vice Mayor Roberts introduced the ordinance which was read by title only.

ADOPTED ON SECOND READING

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

- O-2 12-2398** SECOND READING OF ORDINANCE - 2013 DISCOVER ORANGE BOWL AND DISCOVER BOWL CHAMPIONSHIP SERIES - designating public purpose special event and limited temporary exemption from sign requirements - December 1, 2012 through January 20, 2013

Mayor Seiler disclosed that he serves on the Board of Directors of the Orange Bowl Committee which puts on both the Discover Orange Bowl and the Discover Bowl Championship Series. However, the committee is a not-for-profit organization and he does not receive any financial gain as he is an unpaid volunteer.

Vice Mayor Roberts introduced the ordinance which was read by title only.

ADOPTED ON SECOND READING

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

- O-3 12-2417** FIRST READING OF ORDINANCE AMENDING CODE OF ORDINANCES, CHAPTER 9 AND UNIFIED LAND DEVELOPMENT REGULATIONS, SECTIONS 47-19.2.Z, 47-21.5 AND 47-35.1 - IMPLEMENTATION OF GO SOLAR ROOFTOP PHOTOVOLTAIC SOLAR SYSTEM PERMITTING PROGRAM

Vice Mayor Roberts introduced the ordinance which was read by title only.

PASSED FIRST READING

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

O-4 12-2502 FIRST READING OF ORDINANCE - CONVENIENCE AND LIQUOR
STORE MORATORIUM WITHIN BOUNDARY OF NORTHWEST
PROGRESSO FLAGLER HEIGHTS COMMUNITY
REDEVELOPMENT AREA - 90 days with ability to extend

Commissioner DuBose introduced the ordinance which was read by title only.

PASSED FIRST READING

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and
Commissioner Rogers

12-2552 WALK-ON - MOTION APPROVING USE OF NEGOTIATION
METHOD TO OBTAIN PROPERTY INSURANCE PREMIUM
QUOTES

Mayor Seiler was concerned about whether proposals will be brought forward by one agent or by each insurer. Commissioner DuBose believed this comes through the Insurance Advisory Board (Board). Mayor Seiler had no objection to the negotiation method as long as a process is in place to decide upon the agent who will present the proposals. Guy Hine, Risk Manager, confirmed that this goes through the Board, but the agent who is contracted with the City, along with a surplus line to wholesale agent, will be negotiating with all available insurance markets. Further, the City's contracted agent, PRIA (Public Risk Insurance Agency), has undergone a competitive selection process. He confirmed for Commissioner DuBose that the City's agent will search out the best rate and bring that information to the Board; the Board then makes a recommendation for the Commission. The City has an agent but, in terms of policies, there are multiple providers.

Motion made by Commissioner DuBose and seconded by Vice Mayor Roberts to approve the item as presented.

APPROVED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and
Commissioner Rogers

12-2613 WALK-ON - APPOINTMENT OF VICE MAYOR

Bruce G. Roberts

Commissioner DuBose introduced the resolution which was read by title only.

ADOPTED

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and
Commissioner Rogers

12-2578 WALK-ON - EXPANDING MEMBERSHIP OF THE CITIZENS'
COMMITTEE OF RECOGNITION

Commissioner DuBose introduced the ordinance which was read by title only.

ADOPTED ON SECOND READING

Aye: 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and
Commissioner Rogers

Note: The City Commission adjourned the regular meeting at 7:23 p.m. and returned to the conference meeting agenda, item BUS-4, at 7:24 p.m.

John P. "Jack" Seiler
Mayor

ATTEST:

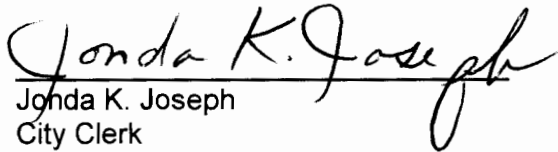
Jonda K. Joseph
City Clerk

Note: The City Commission adjourned the regular meeting at 7:23 p.m. and returned to the conference meeting agenda, item BUS-4, at 7:24 p.m.



John P. "Jack" Seiler
Mayor

ATTEST:




Jonda K. Joseph
City Clerk

PH-1

Memorandum
No. 12-0146

City Attorney's Office

To: Lee R. Feldman, ICMA-CM, City Manager
From: Harry A. Stewart, City Attorney/5037 
Date: September 24, 2012
Re: Your Memo No. 12-031, Dated September 20, 2012:
Commission Agenda Memo No. 12-2148 – Motion to Approve FY
2013 HOPWA Grant Funds – RFP No. 825-11034

With reference to your Memorandum No. 12-031 pertaining to Non-Housing Support Services HOPWA funding for Legal Aid Services of Broward County, Inc. and its subcontractor, Coast to Coast Legal Aid of South Florida (hereinafter collectively "Legal Aid"), I agree that conflicts of interest with the Program and problems with the Program's effective and efficient administration by the City in accordance with HUD mandated guidelines, can and may exist.

More specifically, Legal Aid's response to the City's RFP identifies, in relevant part, the following "activity" and "outcome:"

Provide legal services through advocacy, *pro se* assistance, counsel and advice, and/or representation.

Clients facing eviction, ***administrative proceedings to deny or revoke their subsidized housing***, or uninhabitable conditions, will receive advice, counsel and/or representation on their presenting problem.

Legal Aid's legal representation, as expressly defined in its response, has historically, and continues to include, legal counsel to, and/or the representation of, terminated program participants through the formal administrative process mandated by 24 CFR §574.310(e)(2), as a result of Program requirement violations or conditions of occupancy. Pursuant to HUD guidelines, "[a]ssistance to participants who reside in housing programs assisted under this part may be terminated if the participant violates program requirements or conditions of occupancy." Notably, as part of its response, and seemingly contrary to its statement of "activity" and "outcome". Legal Aid further asserts that it "adhere[s] to the client termination policy provided in HOPWA regulation 24 CFR 574.310(e) and the City of Fort Lauderdale's termination process," and that it "agrees that a Program violation by a client which is contrary to HOPWA regulations ***will result in immediate termination of the offending client from the Program.***"

In terminating assistance to any participant, the City "must provide a formal process that recognizes the rights of individuals receiving assistance to due process of law," which process at a minimum must include: (a) "[s]erving the participant with a written notice containing a clear statement of the reasons for termination;" (b) "[p]ermitting the participant to have a review of the decision, in which the participant is given the opportunity to confront opposing witnesses, present written objections, and be represented **by their own counsel**, before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and" (c) "[p]roviding prompt written notification of the final decision to the participant."

It is through this formal administrative process that the following conflicts arise, and the following problems are created with the City's effective and efficient administration of the Program:

First, the proposed legal counsel and representation would create a direct adversarial relationship and conflict of interest between one subrecipient, Legal Aid, and other subrecipients providing the housing at issue;

Second, a conflict of interest would be created since City, as the Program administrator, would be funding, , not only the arbiter of the legal/administrative challenge by the terminated participant , but the subrecipients which terminate and/or recommend termination of the participants, as well as Legal Aid, as counsel for the terminated participants in the adversary formal process.

Third, the funding of Legal Aid's representation of terminated participants and simultaneous funding of the subrecipient providing housing, would be an ineffective, inefficient, and counter-productive use of Program funds;

Fourth, Legal Aid's non-housing legal services in representing terminated participants against the City and the subrecipient housing provider, would be contrary to and inconsistent with Legal Aid's assertion and assurances that it "adhere[s] to the client termination policy provided in HOPWA regulation 24 CFR 574.310(e) and the City of Fort Lauderdale's termination process," and that it "agrees that a Program violation by a client which is contrary to HOPWA regulations **will result in immediate termination of the offending client from the Program**" --- as asserted, Legal Aid's proposed legal services activity and outcomes would be in direct contravention to the aforementioned statement of agreement;

Fifth, the funding of Legal Aid's non-housing legal services would serve to thwart or otherwise frustrate the City's ability to effectively administer the Program as envisioned by 24 CFR 574.300, which defines eligible activities for HOPWA funds as available to "eligible" persons, and would thwart or otherwise frustrate City's responsibilities pursuant to 24 CFR 574.500, which provides that "[g]rantees are

City Attorney Memorandum No. 12-0146

September 24, 2012

Page 3

responsible for ensuring that grants are administered in accordance with the requirements of this part and other applicable laws," and that "[g]rantees are responsible for ensuring that their respective project sponsors carry out activities in compliance with all applicable requirements." Legal Aid's express non-housing legal services challenging terminations of Program participants would be benefiting non-eligible, terminated, participants of the Program, and would be inconsistent with the City's obligations and responsibilities in funding financial assistance, housing, and supportive services programs that assist people living with HIV/AIDS and their families to locate, acquire, finance, and maintain appropriate housing.

HAS/mr

c: Susanne M. Torriente, Assistant City Manager
John C. Herbst, City Auditor
Greg Brewton, Sustainable Development Director
Jenni Morejon, Sustainable Development Deputy Director
Jonathan Brown, Housing & Community Development Manager

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PH-1

TO : Jonathan B. Brown
Manager, Housing & Community Development
Via email: JonathanBr@fortlauderdale.gov

FROM : Anthony J. Karrat
Executive Director
Legal Aid Service of Broward County, Inc.

RE: 2013 HOPWA Grant Funds – RFP No. 825-11034
Memorandum No. 12-0146 dated September 24, 2012 (hereinafter “Memorandum”)

DATE: October 5, 2012

I. Introduction

24 C.F.R. §574.310(e) addresses the termination of HOPWA recipients from housing programs assisted under HOPWA funding. Of significant note, 24 C.F.R. §574.310(e) (2)(i) states :

Violation of requirements—(i) Basis. Assistance to participants who reside in housing programs assisted under this part **may be terminated** if the participant violates program requirements or conditions of occupancy. **Grantees must ensure that supportive services are provided, so that a participant's assistance is terminated only in the most severe cases** (emphasis added).

The proposal submitted by Legal Aid Service of Broward County, Inc. (LASBC) ensures that “supportive services are provided, so that a participant's assistance is terminated only in the most severe cases”.

The representation by an attorney provides a necessary component of the requirements of due process. Indeed, the mere *proposal for termination* by a HOPWA provider is not a final decision regarding termination. The participant is entitled to a due process hearing at which time the provider must establish that the participant has violated rules governing the HOPWA program. An attorney assists the participant in establishing why he/she has not violated the program, so long as a meritorious defense can be formulated.

There is no conflict of interest for the City in funding both sub recipients at a termination hearing : one who is recommending termination and the other who is defending against it. The Committee created by the City to review the HOPWA proposals *specifically addressed this concern* in its open meeting on September 6, 2012 at which time Jeri Pryor, in her advisory role, requested the Committee consider the possibility of this exact conflict.

Michael McGuigan, President/CEO of Broward House, a HOPWA sub recipient, commented during the discussion. He opined that Legal Aid’s proposal demonstrated the exceptional opportunity for the City, as funder of the sub recipients, to determine a fact in dispute between two sub recipients. Strikingly, it should be noted that Broward House administers the Tenant Based Voucher Program (TBRV) and is therefore a specific provider which might be seeking termination; i.e.: Mr. McGuigan recognized the due process protection offered by LASBC’s proposal was crucial, even in proceedings initiated by his own organization and at which LASBC would be his organization’s adversary. Mr. McGuigan’s position highlights the recognition that our American system of resolving disputes, while an adversary process, is a fair one which affords protections to all persons and where an impartial decisionmaker resolves those differences.

Discussion by the Committee also included the recognition that if a person was entitled to representation, the Committee should not impede that relationship. Using competitive ranking criteria, the Committee rated Legal Aid's proposal as the number one eligible activity in the non-housing supportive services category thereby finding the proposal meets the national objectives established by HUD.

24 C.F.R. §574.625, which governs the HOPWA program, defines a conflict of interest in those situations where an :

employee, agent, consultant, officer, or elected or appointed official of the grantee or project sponsor and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds there under, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

No conflict of interest exists according to this Federal Regulation or any other law raised by the City Memorandum.

II. Similar Funding Source Does Not Create A Conflict of Interest

A similar funding source of two opposing providers does not create a conflict of interest. As support for that proposition, Legal Aid specifically argues that several other government functions which must operate within the restrictions and requirements of due process, fund opposing positions; there is no concern for a "conflict of interest" between the providers. The system recognizes that the common funding source does not alter or impede the funded body from operating as it is legally mandated to do. To wit:

- Atlanta Legal Aid Society, Inc. has been a HOPWA sub recipient for the last 15-18 years through their HOPWA Administrator, the *City of Atlanta*. Atlanta Legal Aid provides legal representation to HOPWA clients, including but not limited to, representation at termination proceedings initiated by other sub recipients of the HOPWA grants.
- The State of Florida through individual Counties, funds the State Attorney's Office to prosecute crimes while also funding the Public Defender's Office and the Office of Criminal Conflict and Civil Regional Counsel to provide free defense to those accused. On page two of the Memorandum, the City emphasizes that a participant must be given the opportunity to be represented by *their own counsel*, as if that phrase in the HUD regulations means the participant must pay for his/her own counsel. That simply is not so. This provision recognizes that the defending participant must have the opportunity to be represented by their own counsel. Many HOPWA participants cannot afford private counsel. Therefore, the funding of LASBC to provide free legal counsel to HOPWA participants clearly and necessarily furthers the mandate of being given the opportunity to have their own counsel.
- The State of Florida funds the Department of Children and Families to oversee the administration of the foster care system and the removal of children from their parents. Other State funding is provided to the Office of Criminal Conflict and Civil Regional Counsel to represent parents who seek to dispute the removal of their children.

- Akin to the City's other concern, that of funding the "arbiter of the legal/administrative challenge by the terminated participant", the State likewise funds the Judiciary system which, as an independent and impartial body, adjudicates criminal and foster care disputes.
- On December 1, 2011, The Department of Veteran Affairs issued an availability of funds for a supportive services grant under the Supportive Services for Veteran Families (SSVF). This grant, similar to the HOPWA program, funds a Continuum of Care for the provision of supportive services for a targeted population. Specifically authorized under this grant is the provision of free legal representation to Veterans in issues including, but not limited to, the administrative appeal of the denial of Veteran and other government benefits.
- LASBC was a sub recipient of the federally funded Homeless Prevention Rapid Re-Housing Program (HPRP). As a collaborative partner in this extremely successful program, Legal Aid was funded to represent tenants in various landlord/tenant issues. Included amongst those responsibilities was our presence at administrative informal reviews on behalf of applicants who had been denied rent assistance by one of the other HPRP providers.

III. Providing the opportunity to have their own legal counsel fosters dignity, assists HOPWA clients in participating meaningfully in the life of the community, and allows them to meet their basic needs for housing which is a fundamental goal of the HOPWA program.

Courts across the nation have held that continued participation in a Section 8 program is an essential, protected property interest because eligible participants rely on the subsidy to meet their basic need for housing. *Basco v. Machin*, 514 F.3d 1177 (11th Cir. 2008); *Clark v. Alexander*, 85 F.3d 146 (4th Cir. 1996). "Welfare provides the means to obtain essential food, clothing, housing, and medical care", (emphasis added), *Id* citing *Nash v. Florida Industrial Commission*, 389 U.S. 235, 239, 88 S.Ct. 362, 366, 19 L.Ed.2d. 438 (1967).

The public policy considerations behind the United States welfare system are overwhelming. This country has historically been committed to fostering "the dignity and well-being of all persons within its borders" and the recognition that poverty is oftentimes thrust upon the poor by forces outside of their control, *Goldberg v. Kelly*, 397 U.S. 254, 265 (1970).

Welfare is designed to meet some of the basic needs of the poor in an attempt to offer the impoverished the same opportunities of "others to participate meaningfully in the life of the community", *Id*. Section 8 benefits are "welfare" as they provide the means to obtain essential housing. Welfare is an essential source of security to qualified recipients, however traditionally, the rights of the poor to their "entitlements, although recognized by public policy, have not been effectively enforced", *Goldberg* at 263, FN 8, citing *Reich, Individual Rights and Social Welfare : The Emerging Legal Issues*, 74 Yale L.J. 1245, 1255 (1965), *Reich, The New Property*, 73 Yale L.J. 733 (1964).

IV. The mere allegation of a program violation does not terminate the participant.

The City's position treats the *proposal to terminate* HOPWA benefits as equivalent to the *termination*. Specifically, in several instances, the City Memorandum refers to the participant as "terminated" prior to an administrative hearing. A participant is not "terminated" until the review process has been completed. Therefore, these classifications appear to be a pre-determination by the City that if a HOPWA sub recipient recommends termination, it will be upheld by the hearing officer. For example,

- On page one, the City states that "Legal Aid's representation, as expressly defined in its response, has historically, and continues to include, legal counsel to, and/or the representation of, *terminated program participants* through the formal administrative process mandated by 24 CFR §574.310(e)(2), as a result of Program requirement violations or conditions of occupancy" (emphasis added).
- Also on page one, the City identifies what seems to be its assumption that Legal Aid cannot simultaneously agree that clients who violate HOPWA regulations should be terminated and also represent persons proposed for termination in administrative proceedings. However, this suggested dichotomy simply does not exist. Legal Aid agrees that if it is proven that a person violated a program rule, after completion of the review process, the law provides for the termination of the offender from the program. However, at that pre-termination hearing, the participant has a right to present a defense which may include procedural defects in the process as well as factual evidence in direct contradiction to the provider's case. Undeniably, there may be situations where termination is proposed but is unwarranted; just as there may be terminations proposed that are warranted.
- On page two, the City again likens the proposal to terminate to a foregone conclusion that termination will occur by raising the "third" concern that the "funding of Legal Aid's representation of *terminated participants* and simultaneous funding of the sub recipient providing housing, would be an ineffective, inefficient and counter-productive use of Program funds" (emphasis added). Legal Aid suggests that our proposal is one of the *most effective, efficient and productive* uses of the Program funds. In light of the intent of 24 C.F.R. §574.310(e) that termination occur only *in the most severe cases*, Legal Aid's participation will be an additional guarantee that City sub recipients comply with this mandate. Without our participation, it is not inconceivable to imagine that some HOPWA participants will be wrongfully terminated and thereby placed at risk of homelessness and a deteriorated medical condition. If Legal Aid assists a participant in preventing an unlawful termination, the payment for our services proves to be :
 - *effective* because the participant is not wrongfully terminated;
 - *efficient* because the assistance of counsel promotes the effective administration of the process which ultimately leads to the effective administration of justice;
 - *productive* in the provision of services which comport with due process.
- In affirming the right to a pre-termination hearing, the U.S. Supreme Court stated "the stakes are simply too high for the welfare recipient, and the *possibility for honest error or irritable misjudgment too great*", *Goldberg v. Kelly*, 397 U.S. 254, 266 (1970). Additionally, the U.S. Supreme Court stated that the "uninterrupted provision of welfare, coupled with the State's interest in avoiding the erroneous termination clearly outweighed the State's competing concern to prevent any increase in its fiscal and administrative burdens", *Goldberg v. Kelly*, 397 U.S. 254, 266 (1970). By way of extension, the *possibility for honest error or irritable misjudgment is too great* and the stakes are too high for the HOPWA participant to be denied free legal counsel at termination hearings.
- The rights expressed by the *Goldberg* Court were extended to public housing recipients in *Caulder v. Durham Housing Authority*, 433 F.2d 998 (1970) and *Escalera v. New York City Housing Authority*, 425 F.2d 853 (1970). The *Caulder* Court stated "(t)he "privilege" or the "right" to occupy publicly subsidized low-rent housing seems to us to be no less entitled to due process protection than entitlement to welfare benefits which were the subject of decision in *Goldberg* or the other rights and privileges referred to in *Goldberg*. The program of subsidized low-cost public housing has been undertaken to serve a variety of state interests. *Should an*

eligible tenant be wrongfully evicted, some frustration of these interests will result. The impact on the tenant is no less. Not only is he, by definition, one of a class who cannot afford acceptable housing so that he is "condemned to suffer grievous loss," but should it be subsequently determined that his eviction was improper the wrong cannot be speedily made right because of the demand for low-cost public housing and the likelihood that the space from which he was evicted will be occupied by others. In short, both governmental and individual interests are furthered by affording due process in the eviction procedure", *Id* at 1003 (emphasis added).

- Finally, in its "fifth" point, the City raises a fear that Legal Aid's representation at termination hearings impedes the ability to effectively administer the Program for "eligible" persons and its ability to comply with its HUD regulations regarding administration of the Program.
 - 24 C.F.R. §574.300 defines eligible activities which are available to eligible persons. 24 C.F.R. §574.3 defines "eligible person" as a "person with acquired immunodeficiency syndrome or related diseases who is a low-income individual, as defined in this section, and the person's family..."
 - According to the aforementioned Federal Regulations, eligibility defines a status for entry into the HOPWA program. It is not a factor in termination from the program. Although the City refers to "eligible" persons, the reference is somewhat misplaced in that the definition of eligibility does not reference the termination process. Therefore, a violation of program rules can lead to termination from the Program, but it does not affect or alter the person's "eligibility".
 - The City states that "Legal Aid's express non-housing legal services *challenging terminations of Program participants would be benefitting non-eligible, terminated participants of the Program*" (emphasis added). Once again, the City incorrectly assumes the mere proposal to terminate renders the participant ineligible and is inherently "inconsistent with the City's obligations and responsibilities in funding financial assistance, housing and supportive services programs that assist people living with HIV/AIDS ..." The City's exclusion of Legal Aid's defense at termination hearings violates the language and spirit of HOPWA. Clearly, and as stated earlier, a participant is not terminated from the Program upon the mere allegation of a violation. A violation does not transform into a termination until the review process is completed.

V. Conclusion

Legal Aid Service of Broward County, Inc. asserts that no conflict of interest has been demonstrated by the City and further, there is no conflict which would prevent LASBC from receiving funding to provide this vital opportunity for HOPWA participants to have their own counsel.

LASBC is recognized by over 150 Broward County agencies as a vital resource and community partner. Included amongst those agencies which routinely seek our legal assistance are HOPWA partners: CareResource, Broward House, Broward Regional Health Planning Council, SunServe, Minority Development & Empowerment, Mount Olive and Susan B. Anthony. These organizations, and the persons they serve, will benefit from Legal Aid's participation in the HOPWA termination process.

The Housing Opportunities for Persons with AIDS (HOPWA) Program was authorized by the National Affordable Housing Act of 1990 and revised under the Housing and Community Development Act of 1992 to provide states and localities with the resources to devise and implement long-term comprehensive strategies for meeting the housing needs of low-income persons with AIDS and related diseases and their families. As an eligible municipality, the City of Fort Lauderdale receives a HOPWA formula grant award from HUD annually which is administered by its Housing and Community development division (HCD) of the Department of Planning and Zoning. In turn, HCD allocates these funds to eligible project

sponsors such as LASBC, following an application process. The proposal submitted by LASBC is consistent with HUD's HOPWA Program goals of maintaining housing stability and preventing homelessness. The proposal presents an innovative strategy to provide supportive services to further the City's objective as stated in the 2010-2015 Consolidated Plan to increase housing stability and reduce homelessness thereby increasing access to care through the Ryan White Care Act Program administered by Broward County.

As was discussed in great length at the City Commissioners' Meeting on September 18, 2012, the purpose of the HOPWA program is to provide safe housing to as many HOPWA clients as is possible under the Continuum of Care. The LAS proposal supports the Continuum of Care because our advocates will work with Program partners in assuring that Program objectives are not compromised and that unlawful terminations from the Program do not occur.

In Policy Perspective on Housing and HIV/AIDS, Henry Cisneros asserts that persons living with HIV/AIDS can survive "indefinitely with the right medicines and appropriate therapies *if they are in a stable and safe living environment*" and that the "death rate for persons with HIV/AIDS who are homeless is five times that of persons with HIV/AIDS who are in stable housing", AIDS Behav (2007) 11:S7-S8, June 2007 (emphasis added). Cisneros, the former Secretary of the US Department of Housing and Urban Development, states "housing in and of itself is a first-step intervention for the prevention and treatment of HIV/AIDS" and cites to the 2005 Housing and HIV/AIDS Housing Coalition for the critical proposition that "housing is a pre-condition for effectively assisting homeless persons who are vulnerable to HIV/AIDS".

Recommendations from the HIV/AIDS Coalition included supportive housing services; Legal Aid highly recommends that the City adopt all of our proposed legal services as a critical component of supportive housing services. Legal Aid supports Cisneros' conclusions that there is a direct relationship between effective HIV/AIDS prevention and stable housing.

Housing by itself doesn't guarantee the end of the desperate spiral of personal decline. But a stable place to live does make it possible to begin to untie the knot of challenges of life with HIV/AIDS. It stops the disorienting acceleration of deterioration, the unforgiving cycle of complications, offering instead a place to rest, to be safe, to receive regular therapies, and a place to gather one's thoughts for the challenges ahead. Housing is a place to safeguard possessions, to eat regularly, to gather family members, to pray, to study, to groom, to heal. A place to call home is respite from the mean streets and it is a new chance at life. Policy Perspective on Housing and HIV/AIDS, AIDS Behav (2007) 11:S7-S8, June 2007.

Legal Aid Service of Broward County, Inc. is pleased to have been provided this opportunity to respond to the City's concerns. Our attorneys and staff eagerly await the opportunity to provide the full range of services offered in our HOPWA proposal.

If you require additional information, please do not hesitate to contact me. I look forward to a prompt resolution of these issues so that services to HOPWA recipients are no longer delayed.

NOV 20, 2012 PH-1

PROVIDED BY



DWAYNE

DICKERSON

REVIEWED BY PATRICE

PALDINO

- Kinship petitions and custody matters
 - Education legal rights for children with HIV/AIDS
 - Representation of children in dependency/juvenile justice system
 - Tenant/landlord court proceedings
 - Foreclosure and Bankruptcy
 - Obtaining identification (driver's licenses and birth certificates)
 - Immigration
 - Debt Counseling
 - Tax matters
 - Provide 4 EDUCATION FORUMS annually to clients and HOPWA professionals
-

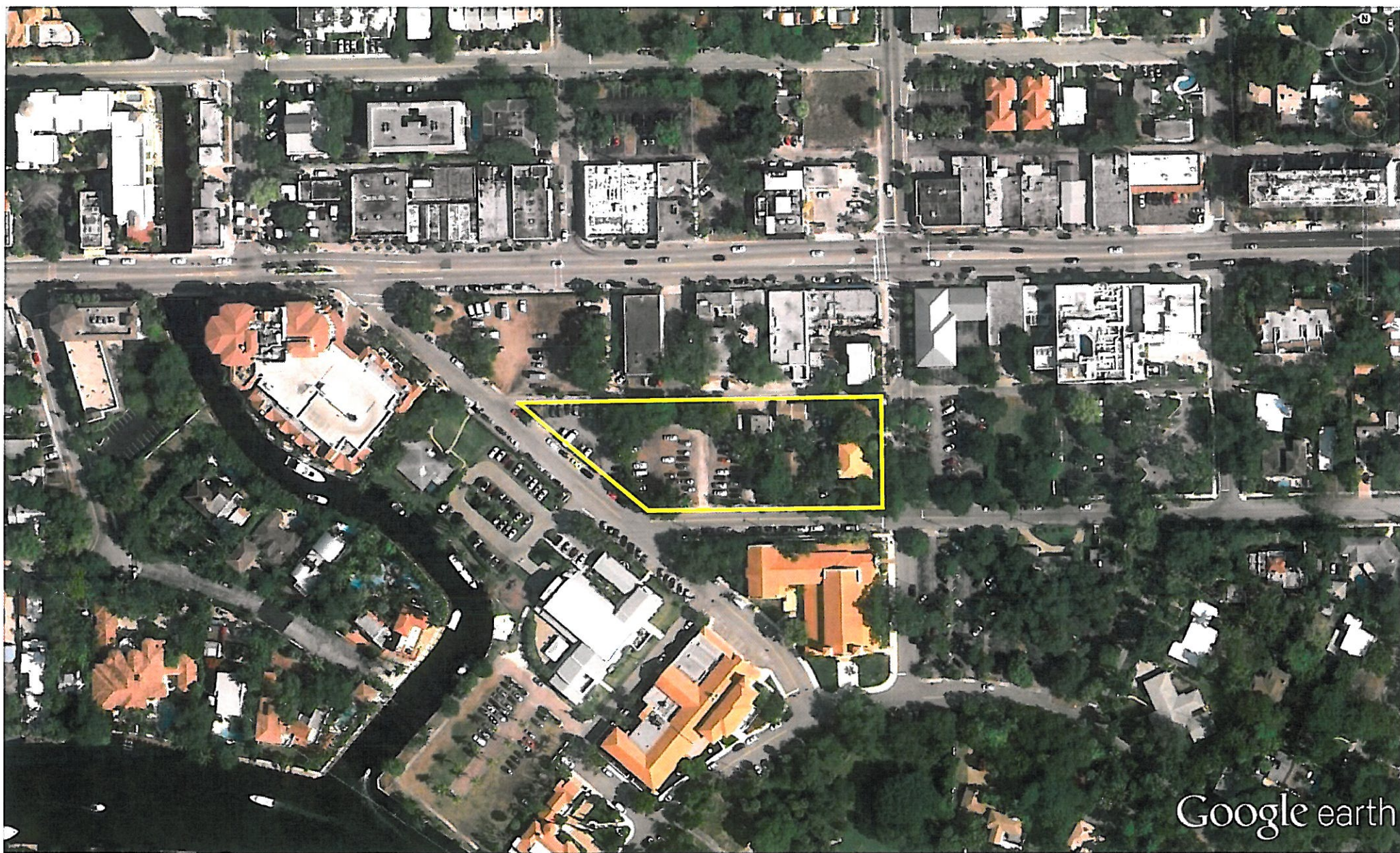
Legal checkup: client & attorney review barriers to housing stability

Advice and counsel

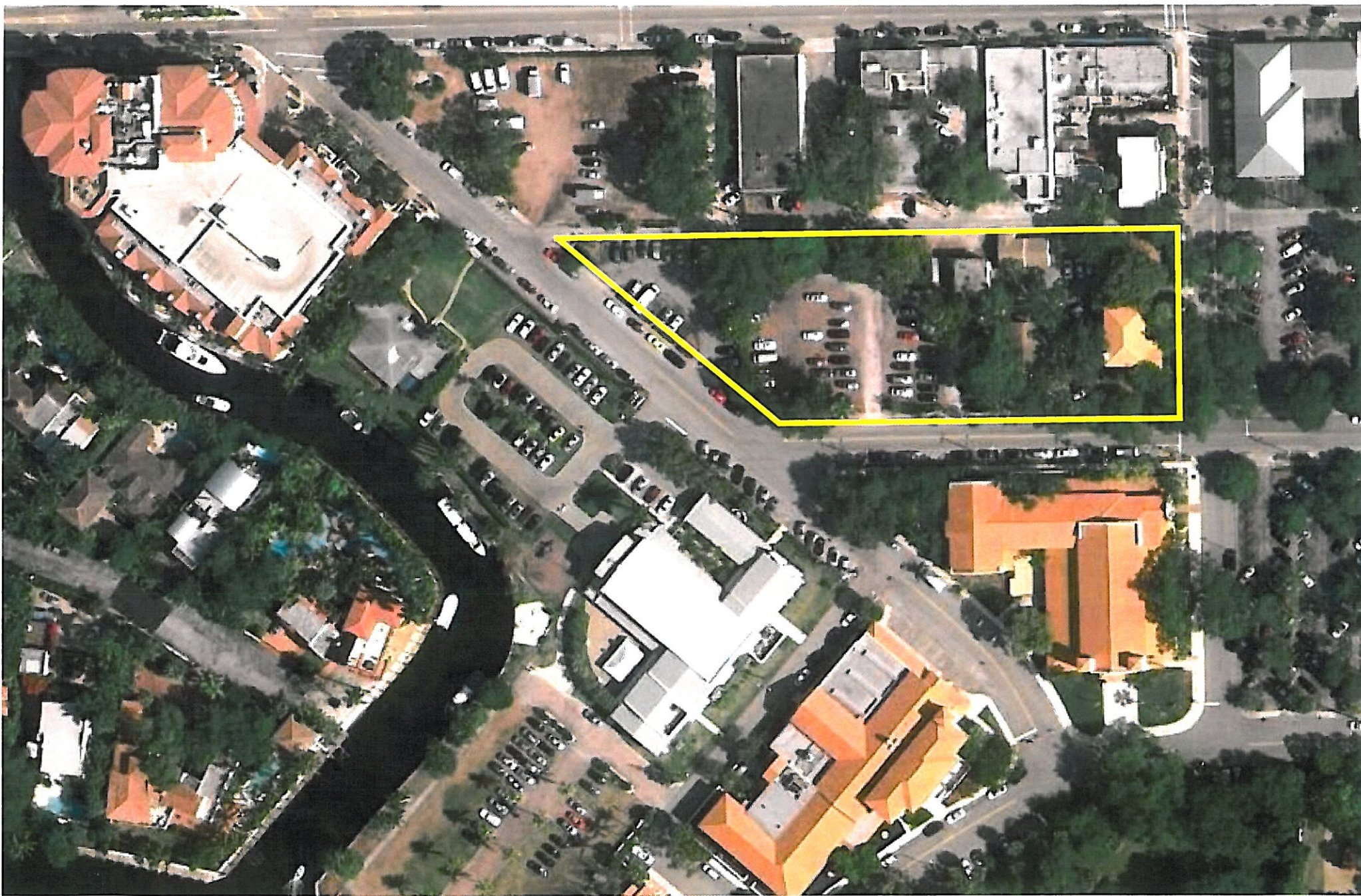
Direct legal representation

Collaboration with other HOPWA providers

Community outreach & education to clients and HOPWA providers



Google earth







1472 Southeast 4th Street



Exit Street View



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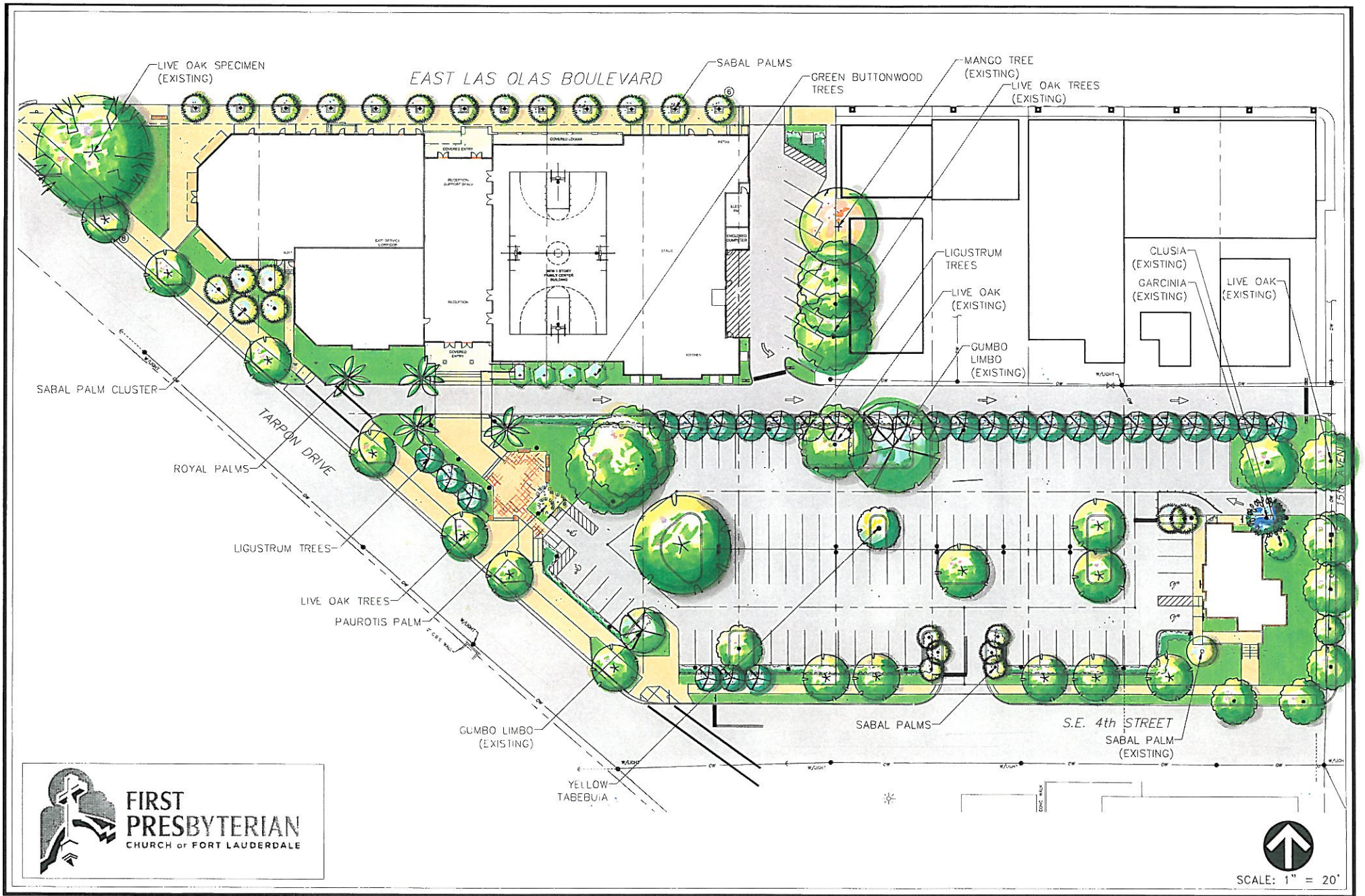
26°07'08.50" N 80°07'41.44" W elev 49 ft

Eye alt 17 ft



This 3-Dimensional representation of the proposed development is true and accurate relative to the height, width and length of any adjacent or proximate existing structures.

Aerial View Looking Southeast





This 3-Dimensional representation of the proposed development is true and accurate relative to the height, width and length of any adjacent or proximate existing structures.

Tarpon Drive looking North



This 3-Dimensional representation of the proposed development is true and accurate relative to the height, width and length of any adjacent or proximate existing structures.

Tarpon Drive looking East



This 3-Dimensional representation of the proposed development is true and accurate relative to the height, width and length of any adjacent or proximate existing structures.

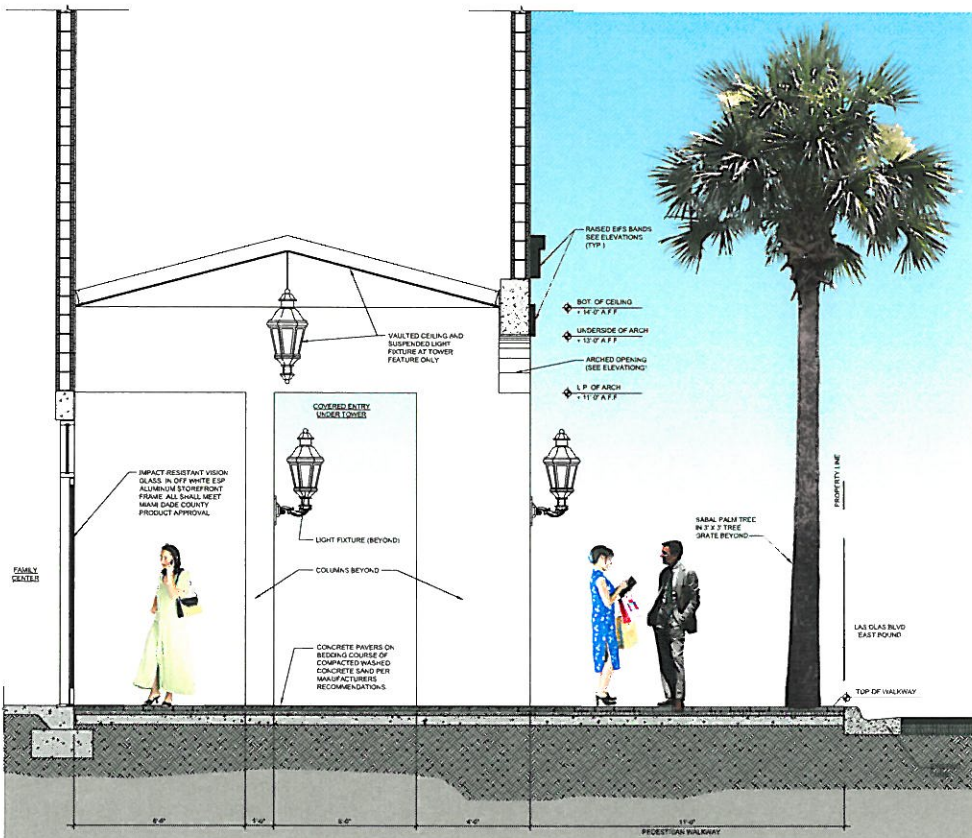
Las Olas Boulevard looking East

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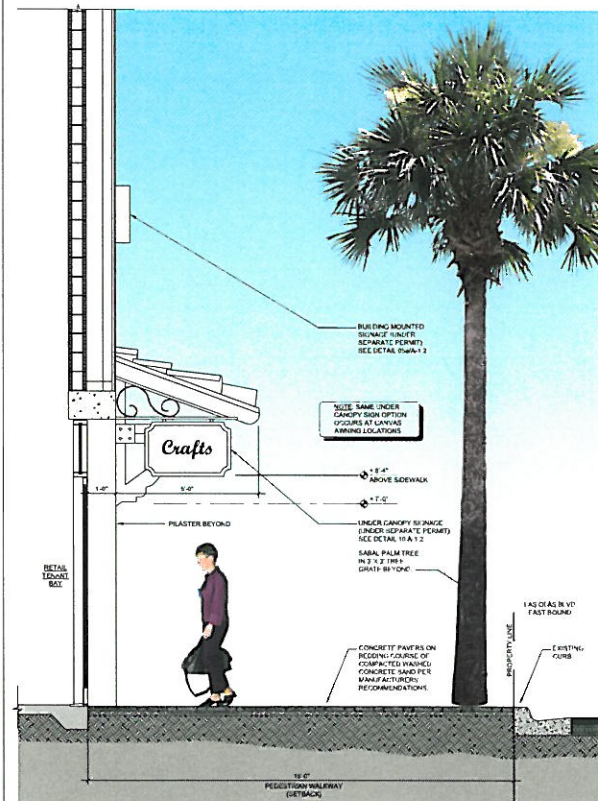
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RETAIL PEDESTRIAN WALKWAY SECTION @ LAS OLAS

SCALE 3/8"=1'-0"

03

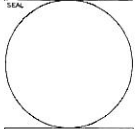


RETAIL PEDESTRIAN WALKWAY SECTION @ LAS OLAS

SCALE 3/8"=1'-0"

01

REVISIONS



CONSULTANT

STILES ARCHITECTURAL GROUP
 301 East Las Olas Blvd
 Fort Lauderdale, Florida
 954 - 627 - 9180 33301
 FL REG #AA-26001796

PROPOSED FAMILY CENTER WITH RETAIL SHOPS FOR
FIRST PRESBYTERIAN
 CHURCH OF FORT LAUDERDALE
 EAST LAS OLAS BLVD @ TARPON DRIVE
 FORT LAUDERDALE, FLORIDA 33301

STREET SECTIONS

A-7.2

PROJECT NO 7385
 DRAWN BY PAV
 CHECKED BY PAV
 DATE 10.22.12