

IN THE CIRCUIT COURT OF THE 17th
JUDICIAL CIRCUIT, IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO.: CACE-19-023627 (21)

KAREN DONALD and PETER
DONALD,

Plaintiffs,

vs.

CITY OF HOLLYWOOD, a municipal
corporation of the State of Florida,

Defendant.

SETTLEMENT AGREEMENT

WHEREAS, Plaintiffs, Karen Donald and Peter Donald (“Plaintiffs”), filed a First Amended Complaint in the above-styled case on April 11, 2020 seeking compensation for inverse condemnation and damages for trespass against Defendant, City of Hollywood (“City”), for constructing a sidewalk on property owned by Plaintiffs (hereafter “Disputed Property”);

WHEREAS, the City asserted various defenses to Plaintiffs’ claims;

WHEREAS, Plaintiffs and the City (collectively, “the Parties”) wish to resolve the claims asserted by Plaintiffs in order to avoid the burden, risk, and expense of further litigation;

WHEREAS, the City, in good-faith and based upon reasonable diligence, in 2016 constructed upon the Disputed Property and currently maintains a sidewalk, which provides a pedestrian pathway from North 65th Way to Sheridan Street;

WHEREAS, the City has determined that the Disputed Property is a portion of vacated public right-of-way that is no longer held in the public domain;

WHEREAS, Plaintiffs hold fee simple title to additional property (“Additional Property”) that is adjacent to and contiguous with the Disputed Property;

WHEREAS, the Additional Property and the Disputed Property are encumbered by a recorded utility easement that limits the use of the Additional Property and the Disputed Property and which, other than for a sidewalk and vegetation maintained by the City, are unimproved;

WHEREAS, in exchange for the payment of compensation and damages as set forth below, Plaintiffs agree to deed to the City their interest in the Disputed Property and the Additional Property;

WHEREAS, the Disputed Property and the Additional Property bifurcate two parcels of land that the City owns and currently uses as public space; and

WHEREAS, it is in the public interest for the City to own and maintain the Disputed Property and the Additional Property, thereby enabling the City to maintain the sidewalk and underlying property in a manner that eliminates bifurcated ownership.

Accordingly, based upon their understanding of the above recitals, and in consideration of the covenants and terms contained within this Settlement Agreement, Plaintiffs and the City stipulate to the following:

1. For purposes of this settlement only, the Parties acknowledge and agree that the statements in the WHEREAS clauses above are true and correct.
2. The Parties acknowledge and agree that the compensation / damages paid in this case is the result of a compromise between the Parties. This Settlement Agreement, and the negotiations and discussions leading up to this Settlement Agreement, resolve any and all claims that are denied and contested, but do not constitute, nor shall they be construed to constitute, any admission of liability by the Parties. This Settlement Agreement is made solely for the purpose of avoiding the burden, risk, and expense of litigation, which would be imposed on the Parties if the disputes between them remain unsettled. This Settlement Agreement does not constitute an admission by either of the Parties that it has engaged in any unlawful, unconstitutional, wrongful,

or negligent act. Each of the Parties expressly denies that it has engaged in any unlawful act and denies liability for all claims either Party had, has, or may have against the other.

3. The City agrees to pay Plaintiffs SEVENTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$77,500.00) (“Settlement Amount”).

4. The City agrees to pay the Settlement Amount (1) in full and final settlement of any and all claims whatsoever that relate to the allegations in the complaints filed in the above-styled case, including but not limited to, statutory interest, statutory attorney’s fees and costs, expert witness fees and costs, and any apportionment among Plaintiffs and any other persons; and (2) as consideration for the purchase of the portion of Plaintiffs’ property (the Disputed Property and the Additional Property) that is legally described as follows and depicted in the survey attached as Exhibit “A”:

[INSERT LEGAL DESCRIPTION OF THE PROPERTY]

5. The Parties agree to the terms of the proposed stipulated final judgment attached as Exhibit “B,” and agree to submit the stipulated final judgment to the Court for entry upon the City Commission approving execution of this Settlement Agreement.

6. Plaintiffs agree to properly execute the quitclaim deed in the form attached as Exhibit “C,” which executed instrument shall be returned to counsel for the City to be held in escrow until counsel for Plaintiffs receives the payment amount set forth in Paragraph 3 above.

7. The City agrees to draft all documents that are needed to effectuate this settlement.

8. The City agrees to present this Settlement Agreement to the City Commission on September 2, 2020 for approval. If the City Commission does not approve this Settlement

Agreement on September 2, 2020 and authorize its execution by a City representative: (a) it shall be null and void and shall not be binding or enforceable by Plaintiffs or the City; (b) the Parties may continue to pursue their respective claims and defenses in the above-styled case; and (c) the terms of this Settlement Agreement and any settlement discussions among the Parties shall be inadmissible as evidence and protected as set forth in Section 90.408, Florida Statutes.

9. This Agreement (including the attachments to this Agreement) contains the final and entire agreement and understanding between the Parties and is the complete and exclusive statement of its terms.

KAREN DONALD

CITY OF HOLLYWOOD

By: Karen Donald
Owner

By: _____
as authorized representative

PETER DONALD

By: Peter Donald
Owner

Buchanan Ingersoll & Roney, P.C.
Attorneys for Owners
One Biscayne Tower
2 South Biscayne Blvd., Suite 1500
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Weiss Serota Helfman Cole
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200 East Broward Blvd., Suite 1900
Fort Lauderdale, FL 33301
Telephone: 954-763-4242

By: _____
Kyle B. Teal
Fla. Bar No. 99193
Howard A. Cohen
Fla. Bar No. 190281

By: _____
Mitchell Burnstein
Fla. Bar No. 813249
Alicia Gonzalez
Fla. Bar No. 7534

*****Survey*****

IN THE CIRCUIT COURT OF THE 17th
JUDICIAL CIRCUIT, IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO.: CACE-19-023627 (21)

KAREN DONALD and PETER
DONALD,

Plaintiffs,

vs.

CITY OF HOLLYWOOD, a municipal
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Defendant.

STIPULATED FINAL JUDGMENT

This matter came before the Court upon stipulation of Plaintiffs, Karen Donald and Peter Donald (“Plaintiffs”), and Defendant, City of Hollywood (“City”) (collectively “Parties”), for entry of final judgment. Having reviewed the pleadings and being fully advised in the premises, the Court makes the following findings:

1. The operative pleadings before the Court are Plaintiffs’ First Amended Complaint (dated April 11, 2020; “Complaint”) and the City’s Answer and Affirmative Defenses to the First Amended Complaint (dated April 21, 2020; “Answer”). The Complaint asserts causes of action in inverse condemnation and trespass, and the Answer raises various defenses in opposition to those causes of action.

2. Without any admission of wrongdoing or liability by either Plaintiffs or the City in regard to the claims asserted in the Complaint or the defenses raised in the Answer, the Court

finds that the property at issue is private property and is no longer in the public domain by virtue of being a portion of County vacated road right of way.

3. In order to settle all claims raised in the Complaint and all defenses raised in the Answer, Plaintiffs and the City have agreed that Plaintiffs will, by separate instrument to be recorded in the Public Records of Broward County, Florida, convey the property at issue that is identified in the Complaint, along with additional property which is owned by Plaintiffs, to the City. The property at issue, along with the additional property, is described in Exhibit “A” attached and will hereafter be referred to as the “Subject Property.”

Accordingly, the Court ORDERS and ADJUDGES that:

1. The Court has jurisdiction over the subject matter and the parties to this cause.
2. The City shall pay Plaintiffs SEVENTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$77,500.00) (hereafter the “Settlement Amount”) (1) in full and final settlement of all claims whatsoever that relate to the allegations in the Complaint, including, but not limited to, statutory interest, statutory attorney’s fees and costs, expert witness fees and costs, and any apportionment among Plaintiffs and any other persons; and (2) as consideration for the City’s acquisition of the Subject Property by deed.
3. Within 10 days from the date of the Court entering this Stipulated Final Judgment, Plaintiffs shall convey the Subject Property to the City by executing a quitclaim deed and returning it to the City to be held in escrow until payment is made as set forth in Paragraph 4 below, after which the City shall be responsible for recording the fully executed quitclaim deed in the public records of Broward County, Florida.
4. Within 20 days from the date of the Court entering this Stipulated Final Judgment, the City shall pay the Settlement Amount by issuing a check made payable to Buchanan

Ingersoll & Rooney PC Trust Account and delivering it to Kyle T. Teal, Esq., Buchanan Ingersoll & Rooney PC, One Biscayne Tower, 2 South Biscayne Blvd., Suite 1500, Miami, FL 33131-1822.

5. The Court retains jurisdiction of this case and the parties to this cause in order to enforce the terms of this Stipulated Final Judgment.

DONE AND ORDERED this _____ day of _____, 2020, at Ft. Lauderdale, Broward County, Florida.

The Honorable
Circuit Court Judge

Copies furnished to:
All counsel listed on the attached Service List

SERVICE LIST

Karen Donald and Peter Donald v. City of Hollywood
Case No. CACE-19-023627 (21)

<p>Howard A. Cohen Kyle B. Teal Buchanan Ingersoll & Rooney PC One Biscayne Tower 2 South Biscayne Blvd., Suite 1500 Miami, FL 33131 Telephone: 305-347-5912</p> <p>Email: howard.cohen@bipc.com becky.roberts@bipc.com kyle.teal@bipc.com rhonda.reid@bipc.com</p> <p><i>Counsel for Plaintiffs</i></p> <p>Via Electronic Mail</p>	<p>Mitchell J. Burnstein Alicia Gonzalez Weiss Serota Helfman Cole & Bierman, P.L. 200 East Broward Blvd., Suite 1900 Fort Lauderdale, FL 33301 Telephone: 954-763-4242</p> <p>Email: mburnstein@wsh-law.com lbrewley@wsh-law.com agonzalez@wsh-law.com ozuniga@wsh-law.com</p> <p><i>Counsel for Defendant City of Hollywood</i></p> <p>Via Electronic Mail</p>
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JOINT MOTION FOR ENTRY OF STIPULATED FINAL JUDGMENT

COME NOW the parties to this action, by and through the undersigned and respectfully move this Honorable Court for entry of the foregoing Stipulated Final Judgment this _____ day of _____, 2020.

Howard A. Cohen
Kyle B. Teal
Buchanan Ingersoll & Rooney PC
One Biscayne Tower
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Counsel for Plaintiffs

By: _____

Date: _____

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lbrewley@wsh-law.com
agonzalez@wsh-law.com
ozuniga@wsh-law.com

Counsel for Defendant

By: _____

Date: _____

This instrument prepared by and
after recording return to:
Maria Currais, Esq.
Weiss Serota Helfman Cole & Bierman, P.L.
2525 Ponce de Leon Boulevard, Suite 700
Coral Gables, Florida 33134

Parcel Id No.: 5141 11 18 0030 (portion of)

QUIT-CLAIM DEED

THIS QUIT CLAIM DEED, executed this ____ day of _____, 2020, from
Peter Alan Donald and Karen Donald, his wife, whose mailing address is 2400 NW 65th Way,
Hollywood, Florida 33021, hereinafter referred to as "Grantor", and City of Hollywood, a
_____, whose mailing address is
_____, hereinafter referred to as "Grantee".

(Wherever used herein, the terms Grantor and Grantee include all the parties to this
instrument and the heirs, legal representatives and assigns of individuals, and the successors and
assigns of Corporations.)

WITNESSETH, That the said Grantor, for and in consideration of the sum of (\$10.00)
DOLLARS, and other good and valuable considerations, in hand paid by the said Grantee,
the receipt whereof is hereby acknowledged, does hereby remise, release and quit claim unto
the said Grantee forever, all the right, title, interest, claim and demand which the said
Grantor has in and to the following described property situate, lying and being in Broward
County, Florida, to-wit:

SEE EXHIBIT "A" LEGAL DESCRIPTION AND SKETCH
ATTACHED HERETO AND MADE A PART HEREOF

Subject to an easement in favor of the Florida Power and Light Co. identified as a "160' Fla.
P. & L. Co. Utility Easement" on the plat of Driftwood Plaza (Plat Book 49 at Page 26) and
recorded in Official Records Book 217 at Page 164, Official Records Book 659 at Page 47,
and Official Records Book 967 at Page 543, all of the Public Records of Broward County,
Florida.

This instrument was prepared without the benefit of a title examination

NOTE: The purposes of instrument is to convey the property described on the attached Exhibit A pursuant to Stipulated Final Judgment entered on _____, recorded on _____, in Document Number #_____, of the Public Records of Broward County, Florida.

This instrument was prepared without the benefit of a title examination

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said Grantor, either in law or equity, to the only proper use, benefit and behalf of the said Grantee forever.

IN WITNESS WHEREOF, Grantor has signed and sealed these presents the day and year first above written.

WITNESSES:

Print Name: _____

Peter Alan Donald

Print Name: _____

Karen Donald

STATE OF FLORIDA)
 SS:
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me, by means of ____ physical presence or _____ online notarization, this ____ day of _____, 2020, by Peter Alan Donald and Karen Donald, his wife, who (check one) [☐] are personally known to me or [☐] have produced _____ as identification.

[SEAL]

Notary Public, State of Florida

Print Name

My Commission Expires:

This instrument was prepared without the benefit of a title examination