

MEMORANDUM

November 20, 1996

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (AGARWAL) *PA*
RE: DOCKET NO. 960063-SU - Application for transfer of
Certificate No. 271-S in Lee County from Capital
Sunbelt/Fund '84, Ltd. To Sand Dollar Properties, Inc.

Please file the attached letter and document in the above
referenced docket.

RA/dp

Attachment

cc: Division of Water and Wastewater (Tomlinson)

ACK _____
AFA _____
APP _____
CAF _____
CMU _____
CTR _____
EAG _____
LEG _____
LIN _____
OPC _____
RCH _____
SEC 1 _____
WAS _____
OTH _____

DOCUMENT NUMBER-DATE
12521 NOV 21 96
FPSC-RECORDS/REPORTING



BOARD OF COUNTY COMMISSIONERS

John E. Manning
District One

Douglas R. St. Cerny
District Two

Ray Judah
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Andrew W. Coy
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John E. Albion
District Five

Donald D. Stilwell
County Administrator

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

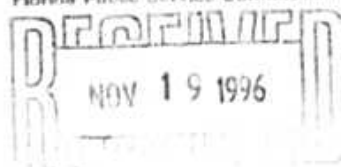
November 18, 1996

P.O. Box 398
Fort Myers, Florida 33902-0398
(941) 335-2111

(941) 335-2236

Writer's Direct Dial Number

Florida Public Service Commission



LEGAL DIVISION

Raj Agarwal, Esq.
Assistant General Counsel, Water & Wastewater Division
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0863

BY: FEDERAL EXPRESS

**RE: SAND DOLLAR PROPERTIES, INC. APPLICATION FOR
TRANSFER OF WASTEWATER CERTIFICATE NO. 271-S,
FPSC DOCKET NO. 960063-SU**

Dear Raj:

In reference to Lee County's formal objection to the above application, please be advised that Lee County and Sand Dollar Properties have settled their differences with respect to both Sand Dollar's lawsuit against Lee County, and Lee County's objection to Sand Dollar's request for the transfer of Wastewater Certificate No. 271-S. I am enclosing for your reference, a copy of the Stipulated Settlement Agreement between the parties, which is now filed with the Lee County Circuit Court in that case (No. 96-0353-CA JRT).

Please take note that in exchange for certain considerations from the County as part of the settlement, Sand Dollar will revise the legal description for its franchise to delete the Pine Ridge Palms RV Park and resubmit same to the Florida Public Service Commission in an Amended Application for the transfer. Additionally, Sand Dollar has waived any and all claims with respect to all other customers previously served in Lee County without the benefit of formal FPSC approval.

AGARWAL.1

DOCUMENT NUMBER - DATE

12521 NOV 21 96

Raj Agerwahl, Esq.
Florida Public Service Commission
November 18, 1996
Page 2

RE: SAND DOLLAR PROPERTIES, INC. APPLICATION FOR
TRANSFER OF WASTEWATER CERTIFICATE NO. 271-S,
FPSC DOCKET NO. 96-0063 SU

Upon notification from you that the Sand Dollar application has been duly revised to meet the requirements of our Settlement Agreement, I will provide you with Lee County's voluntary dismissal of its objection to Sand Dollar's Request for Transfer of Wastewater Certificate No. 271-S in Docket No. FPSC 960063-SU.

Thank you for your patience and cooperation in this matter. Please advise if you require anything further from Lee County at this time.

Cordially,



David M. Owen
Assistant County Attorney

DMO:dm
Enclosure

xc: James G. Yaeger, County Attorney
Robert W. Gray, Deputy County Attorney
Thomas E. Spencer, Assistant County Attorney
J.W. French, P.E., Director, Public Works
Glenn Greer, P.E., Director, Lee County Utilities
Gerald T. Buhr, Esq., P.A.
Noreen S. Davis, Esq., FPSC
Lila Jaber, Esq., FPSC
John D. Williams, FPSC

1. REQUESTED MOTION:

Action Requested: Approve corrected total settlement sum for Blue Sheet No. 961200, Stipulated Settlement Agreement for Sand Dollar Properties, Inc. vs. Lee County, Case No. 96-0353 CA-JRT, and Florida Public Service Commission Action No. 96 0063-SU from \$107,728.00 to \$109,135.00, approve transfer of corrected amount of funds from Department of Lee County Utilities Operating Reserves to Operating Administration - Sewer Budget.

Why Action Is Necessary: Provides authorization for payment of the correct settlement amount of \$99,135.00 (connection fee) + \$10,000.00 (maximum for attorney's fees) for the total amount of \$109,135.00.

What Action Accomplishes: Original connection fee "pay off" amount in Blue Sheet No. 961200 was incorrect at \$97,728.00. The correct amount is \$99,135.00.

**2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #**

3. MEETING DATE: November 13, 1996

4. AGENDA

X CONSENT
ADMINISTRATIVE
APPEALS
PUBLIC

TIME REQUIRED:

**5. REQUIREMENT/PURPOSE
(Specify)**

STATUTE
ORDINANCE
X ADMIN. CODE
X OTHER

6. REQUESTOR OF INFORMATION:

A. COMMISSIONER _____
B. DEPARTMENT County Attorney
C. DIVISION General Services
BY: David M. Owen

7. BACKGROUND: On October 30, 1996, the Board of County Commissioners approved Blue Sheet No. 961200 which contained an incorrect "pay off" amount for the Fort Myers Beach Campground connection fee assessment.

The figure for the connection fee was originally set at \$97,728.00 for the October 30, 1996 blue sheet. The correct amount for the "pay-off" is \$99,135.00, a difference of \$1,407.00.

- Request Approval to:
1. Authorize the corrected Department of Lee County Utilities fund transfers to pay the Fort Myers Beach Campground connection fee (\$99,135.00) and attorney's fees (\$10,000.00 maximum).
 2. Waive the applicable interest and administrative fees (penalties) for the Fort Myers Beach Campground connection fee.
 3. Authorize staff to take all other attendant actions necessary to carry out the terms and conditions of the Settlement Agreement as approved by the Board of County Commissioners on October 30, 1996.

Funds will be available in Department of Lee County Utilities Account #487-5510-536060-4990-000-0000-00 (Utilities Operating/Director of Utilities/Admin-Sewer/Non-Recurring Expense/Utilities Operating Subfund) upon transfer from Account #487-1920-589010-9910-000-0000-00 (Utilities Operating/Non-Departmental/Reserves/Reserve for Contingencies/Utilities Operating Subfund).

8. STANDING COMMITTEE REVIEW:

Date Reviewed by M&P Committee _____ OR Committee Review Not Required X

9. RECOMMENDED APPROVAL

DEPARTMENT DIRECTOR	PURCHASING	HUMAN REL.	Office of Budget Services				OTHER	COUNTY ATTORNEY	COUNTY ADMINISTRATOR
			BA	GC	Risk	Dir.			
<i>[Signature]</i> 10/31/96			<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i> 10/31/96	<i>[Signature]</i> 10/31/96	

10. COMMISSION ACTION:

___ APPROVED
___ DENIED
___ DEFERRED
___ OTHER



BOARD OF COUNTY COMMISSIONERS

John E. Manning
District One

Douglas R. St. Cery
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albon
District Five

Donald D. Stilwell
County Administrator

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

November 7, 1996

Gerald T. Buhr, Esq., P.A.
Northfolk Professional Center
1519 North Dale Mabry, Suite 100
Lutz, Florida 33549-1647

BY: FEDERAL EXPRESS

**RE: SAND DOLLAR PROPERTIES, INC. vs. LEE COUNTY
LEE COUNTY CASE NO. 96-0353 CA-JRT**

Dear Mr. Buhr:

Further to my letter of October 23, 1996 to you in reference to the above, and the Board of County Commissioners' action of October 30, 1996, I am providing you with an original, fully executed Stipulated Settlement Agreement for your file.

Also, as we discussed, the Board will be addressing the adjustment to the assessment "pay off" amount next Wednesday at its regular meeting (enclosed scheduling document no. 961244). Following approval, the County will process the Release of Lien for the Fort Myers Beach Campground and transmit a recorded copy of same to you along with your attorney's fees per your invoices.

Cordially,

David M. Owen
Assistant County Attorney

DMC:dm
Enclosure

xc: James G. Yaeger, County Attorney
Robert W. Gray, Deputy County Attorney
Thomas E. Spencer, Assistant County Attorney
J.W. French, P.E., Director, Public Works
Glenn Greer, P.E., Director, Lee County Utilities
Daryl Walk, P.E., Lee County Utilities

FILE COPY

P.O. Box 2000
Fort Myers, Florida 33902-2000
(941) 335-2111

(941) 335-2236

Worker's Direct Dial Number

C 971019

IN THE CIRCUIT COURT FOR LEE COUNTY, FLORIDA
20TH JUDICIAL CIRCUIT

SAND DOLLAR PROPERTIES, INC.

Plaintiff,

CASE NO. 96-0353 CA-JRT

v.

LEE COUNTY, FLORIDA
a political subdivision
of the State of Florida,

Defendant

_____ /

STIPULATED SETTLEMENT AGREEMENT BETWEEN
SAND DOLLAR PROPERTIES, INC. AND LEE COUNTY

This Settlement Agreement (the "Agreement"), is entered into on this 30th day of October, 1996, by and between Plaintiff, **SAND DOLLAR PROPERTIES, INC.** ("Sand Dollar") and Defendant, **LEE COUNTY**, a political subdivision of the State of Florida ("County"), the "Parties" hereto. The Parties in consideration of the representations, covenants and agreements hereinafter set forth and intending to be legally bound hereby agree as follows:

- 1) County will pay the Fort Myers Beach/Iona-McGregor Sewer System

DOLLAR

Connection Fee Special Assessment currently levied against Lee County Strap No. 06-46-24-01-00002.0000 (described as "Bates Pine Ridge Truck Farms"), owned by Sand Dollar, in the amount of \$97,727.12 as of November 1, 1996, or as such amount as may be applicable at the time of payment under the terms of this Agreement, and up to \$10,000.00 for Plaintiff's legal fees, for a total settlement amount of not-to-exceed \$107,728.00, or such other amount as may be determined as the result of any change to the assessment amount including interest and penalties at the time of payment, or Plaintiff's actual attorney's fees.

Said sum shall be the complete monetary settlement of all of the issues in the above-referenced case, inclusive of all attorneys' fees and costs for the Circuit Court case, and the Florida Public Service Commission Administrative matters referenced herein.

2) Upon the fulfillment of all of Sand Dollar's obligations as set out below, in particular paragraph 4., County will voluntarily dismiss its objections in Sand Dollar's Florida Public Service Commission's Administrative Action No. 96 0063-SU.

3) Upon receipt by Gerald R. Buhr, Esq. of the attorney's fee funds as described above, and a copy of the recorded "Release of Lien" for Strap No. 96-46-24-01-00002.0000 in Lee County (Sand Dollar Properties, Inc., "Fort Myers Beach Campground"), Sand Dollar shall voluntarily dismiss its Lee County Case No. 96-0353 CA-JRT with prejudice, and waives forever any and all claims made thereunder.

4) Within thirty (30) days after receipt of the funds and materials as described above, Sand Dollar will revise the legal description for its requested Florida

Public Service Commission Wastewater Certificate No. 271-S transfer, so as to delete the legal description for the Pine Ridge Palms RV Owners Park, and resubmit same as revised to the Florida Public Service Commission as part of its FPSC Docket No. 96 0063-SU.

5) As part of the consideration for this settlement, Sand Dollar hereby specifically and unequivocally waives forever any and all claims, rights or interests it may have or asserts that it has had or may have with respect to wastewater treatment service to the Pine Ridge Palms RV Owners Park, the Coastal Estates Mobile Home Park and the "Love Boat" Ice Cream Parlor, all located within Lee County, Florida.

6) The Parties intend that this Settlement Agreement be enforceable as an Order of the Circuit Court in and for Lee County and said Court shall retain jurisdiction for the purposes of enforcing any of the terms and conditions of this Agreement.

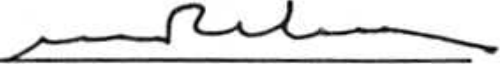
7) In any litigation arising in connection with this Agreement or in any effort to enforce the terms hereof, the prevailing party shall be entitled to reimbursement of its reasonable attorney's fees and costs from the non-prevailing party.

8) This Agreement shall constitute the entire understanding between the Parties and shall supersede all prior communications, whether written or oral, with respect to the settlement of the matters herein.

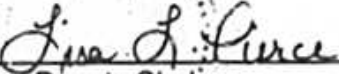
LEE COUNTY, FLORIDA

By: 
Chairman, Board of County
Commissioners
2115 Second Street
Post Office Box 398
Fort Myers, Florida 33902-0398
(941) 335-2259

SAND DOLLAR PROPERTIES, INC.

By: 
Gerald T. Buhr, Esq.
Northfolk Professional Center
1519 N. Dale Mabry, Suite 100
Lutz, Florida 33549
(813) 949-3681
Attorney for Plaintiff
Sand Dollar Properties, Inc.

ATTEST: CHARLIE GREEN
CLERK OF COURT

By: 
Deputy Clerk

APPROVED AS TO FORM:

By: 
Office of County Attorney