

ORIGINAL

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November 8, 2004  
VIA HAND DELIVERY

Blanca S. Bayo, Director  
Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Paradise Lakes Utility; PSC Docket No. 030948-WS  
Application for Transfer of Majority Organizational Control  
Our File No. 37098.01

Dear Ms. Bayo:

Pursuant to the request from Patti Daniel dated September 28, 2004, I am attaching hereto an additional memo outlining the specifics concerning the transfer of additional water plant land to Paradise Lakes Utility, LLC and concerning the transfer back of sewage treatment land no longer utilized by the Utility.

In addition, I will be forwarding an executed deed to the Commission as soon as it is executed and recorded, to reflect the correction of the additional water treatment plant land being transferred. We are also working on an easement for the sewer force main as well.

Should you or any members of the staff have any questions in this regard, please do not hesitate to contact me.

Sincerely,

ROSE, SUNDBSTROM & BENTLEY, LLP



F. Marshall Deterding  
For The Firm

RECEIVED FPSC  
04 NOV - 8 PM 4: 51  
COMMISSION  
CLERK

- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- MMS \_\_\_\_\_
- RCA \_\_\_\_\_
- SCR \_\_\_\_\_
- SEC  FMD/tms
- OTH \_\_\_\_\_

cc: Larry DeLucenay  
Joe Lettelleir

DOCUMENT NUMBER-DATE

12024 NOV-8 3

FPSC-COMMISSION CLERK

# ORIGINAL

## Paradise Lakes Utilities, LLC Exchange of Wastewater Property for Additional Water Property

Paradise Lakes Utility, Ltd. received ownership of the original water and wastewater plant site (0.014 acres for water plant site and .91 acres for the old sewage treatment plant site) in 1985. A copy of these original deeds with legal descriptions is attached hereto as **Exhibit "A."** While these parcels of land have been utilized as utility sites for years they were not transferred into the Utility's ownership until 1985 by Quit Claim Deed from the parent developer.

Originally, it was reported to the staff that the size of the water plant site transferred in 1985 was .12 or .13 acres. This is incorrect. From a review of the deed, it clearly indicates that the parcel is approximately 1/10 that size at 0.014 or 14/1000 of an acre.

In approximately 1998, Paradise Lakes Utility, LLC discontinued use of its sewage treatment plant and ponds and instead interconnected its system with the County in order to receive all sewage service through a bulk service arrangement with the County. At this point, the sewage treatment plant land was no longer needed for Utility treatment purposes and was deeded back to the developer in 1999, subject to the existence of a 6" force main along its west and north property lines within the parcel.

As part of the transfer of the Utility's water and wastewater systems owned by Paradise Lakes Utility, LLC to new ownership, unrelated to the developer, beginning in 2002 the buyer requested that an additional parcel of property be transferred to the Utility for water plant purposes because portions of the existing facilities were not contained within the small existing site owned by the Utility and to allow proper access, storage, and fencing on the Utility land. The existing parcel transferred in 1985 (0.014 acres or an area of approximately 20 X 25 feet) was not sufficient for these purposes. This required the transfer of approximately .12 (12/100 of an acre) acres of land to the water utility, which subsumed the original 14/1000 of an acre. Attached hereto as **Exhibit "B"** is a legal description of the property being transferred to the Utility by the developer to provide this additional .12 acres of land for the water plant site.

Rather than argue about the value of the two parcels of land and any potential gain or loss or other issues relative to the transfer of the sewage treatment plant land back to the developer or transfer of the additional land to the Utility from the developer for the water plant land, the buyer and seller decided that they would just consider the tradeoff of one parcel for the other a reasonable exchange, because of their relative values. Because the Public Service Commission has noted that one parcel received by the Utility is only .12 additional acres and the parcel transferred back to the developer was .91 acres, there have been some questions raised about the relative value. The purpose of this memo is to outline the reasons why the sewage treatment site was worth substantially less than the additional water plant land now being transferred to the Utility and why the Utility is receiving a reasonable, if not very favorable, exchange under this arrangement.

We have outlined below some of the factors that have played into the value of the water plant land being substantially higher than that for the sewer plant land transferred between the developer and Paradise Lakes Utility, LLC.

### Facts Concerning Water Plant Land

1. While the additional land being transferred (.12 acres), for a total water plant land of .12 acres, is a relatively small parcel, it is located on one of the very few waterfront lots in the Paradise Lakes Resort Community. The property adjacent to this new water plant land is currently being prepared for development into multi-family housing and will probably be some of the most, if not the most, sought after and valuable property within the entire resort.
2. But for the agreement of the developer to transfer this water plant property to the Utility, the Utility would have a significant problem in that the needed fencing would not fit on the existing water plant land around the water facilities. Some of the existing facilities are too close to the edge of the property. In fact, the electrical panel and equipment was actually located outside the edge of the existing water plant site before the agreement of the developer to transfer this additional .12 acres to the Utility entity as indicated by the sketch attached as **Exhibit "C."**
3. We previously provided a copy of a letter from a local realtor who operates extensively within the Paradise Lakes area, suggesting that the water plant land transferred to the Utility was of very high value. A copy of that letter previously provided is attached.

### Wastewater Treatment Plant Site

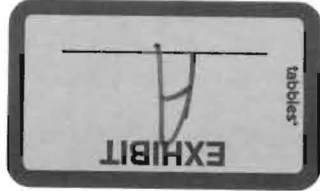
1. The wastewater treatment plant site was retired in 1998. The land was then transferred back to the developer in 1999 without any rehabilitation of the land or restoration expense to the Utility and without demolition of the old sewage treatment facilities or ponds performed by the Utility in advance of such transfer back to the developer. Therefore, the developer had to incur substantial costs for rehabilitation of that property and had to deal with environmental concerns of the various regulatory agencies that were overseeing the further use of that land. While the developer does not keep separate records of the costs which it expended in that rehabilitation and demolition. These costs were substantial. In addition, while some costs were incurred immediately, some other costs were incurred years after the initial cleanup, demolition and rehabilitation, Mr. Lettelleir has noted that the developer spent an additional \$5,000 just on an environmental study long after the rehabilitation had occurred and also incurred additional cleanup costs that were required by the regulators as a precondition of future utilization of that land.
2. While the new water plant land would have been otherwise used for development, the wastewater treatment plant land did not even have paved road or legal access at the time of transfer back to the developer. After transfer back to the developer, it was converted to use as a roadway and a guardhouse rather than being suitable for use for any valuable development purpose by the related party developer.

### Correction of Previous Deed

1. The staff previously brought to our attention that the first Quit Claim Deed transferring the .12 acres of additional water plant land was incorrectly described and suggested a parcel of .65 acres. This was an error. Once brought to the attention of the transferor and transferee of stock within the Transfer of Majority Organizational Control proceeding (currently pending at the PSC) the parties agreed that there was an error and that it needed to be corrected. We will be providing a revised deed which will be recorded to replace that originally submitted to the Commission, in order to correct the description of the property actually being transferred.

### Sewage Force Main

1. While there is no clear document conclusively showing who owns the sewage force main that was constructed (such as a title) in order to interconnect Paradise Lakes Utility's sewage system to the County's bulk service, that line was constructed by the developer of Paradise Lakes, Ltd. and that entity believes it is owned by the Utility since there was no transfer of those facilities to the County. It should be noted that the line also runs through the old sewage treatment plant site and the Utility is in the process of obtaining an appropriate easement for that line to allow for continuing use and access to that force main.



O. N. 1418 PG 1715

*Walter J. ...*  
 Signed, Sealed and Delivered in the Presence of  
*Walter J. ...*  
 by *Walter J. ...* President  
 of the Corporation  
 and the corporate seal to be affixed in its name by its President,  
 the day and year above written.

**To Have and to Hold** the unto, together with all and singular the  
 agreements therein contained as an original agreement, and all the  
 right, title, interest and other advantages of the said party of the first part, unto  
 the said party of the second part, unto the heirs, assigns and legal  
 representatives of the said party of the second part.

*Walter J. ...*  
 Attorney at Law  
 1000 ...  
 1000 ...

Witness my hand and seal of office this 15th day of ...  
 1955

Witness my hand and seal of office this 15th day of ...  
 1955

Witness my hand and seal of office this 15th day of ...  
 1955

Witness my hand and seal of office this 15th day of ...  
 1955

# This Adventure

STANLEY P. ...  
 1000 ...  
 1000 ...

91 Acme  
 5/85  
 PLI to PLU, LH  
 CC

# Quit-Chain-Title

TRIM COMPANY, INC.

TO

Date

O.R. 1918 PG 1716



My Commission Expires                      at                      o'clock                      P.M.

I,                     , a Public Notary in and for the County of                      State of Florida, do hereby certify that the foregoing instrument was duly executed and acknowledged before me on this                      day of                      19                     by                      and                      who are the legal owners of the premises described in the foregoing instrument, and that they are not under any legal disability.

WITNESSETH my hand and official seal at                      this                      day of                      19                    .

I,                     , a Notary Public in and for the State of Florida, do hereby certify that the foregoing instrument was duly executed and acknowledged before me on this                      day of                      19                     by                      and                      who are the legal owners of the premises described in the foregoing instrument, and that they are not under any legal disability.

O.R. 1418 PG 1717

begin at a point 124.88 feet south and 61.12 feet east of the  
corner of Section 26 Township 25 North, Range 18 East, Cass County,  
Florida; thence run S 89°52'07" E, a distance of 317.16 feet;  
thence run S 80°50'14" E, a distance of 120.81 feet; thence run  
N 10°01'18" W, a distance of 259.89 feet; thence run S 12°52'34" E,  
a distance of 6.94 feet; thence run S 17°02'19" W, a distance of  
41.08 feet; thence run S 17°02'19" W, a distance of 14.28 feet;  
thence run S 14°21'29" E, a distance of 69.13 feet; thence run  
S 39°56'11" E, a distance of 64.95 feet; thence run S 00°25'41" E,  
a distance of 27.74 feet; thence run S 83°24'03" E, a distance of  
24.57 feet; thence run N 01°26'34" W, a distance of 13.16 feet;  
thence run S 21°17'04" E, a distance of 17.14 feet; thence run  
S 22°51'22" E, a distance of 25.00 feet to the point of beginning.  
Containing 2.21 acres, more or less.  
Containing with the following described to form a tract for the right  
of ingress and egress:  
begin at a point on the west boundary of Section 26, Township 25  
North, Range 18 East, Florida; a distance of 517.80  
feet east to the corner of said Section 26; thence run S 89°52'07" E,  
a distance of 317.16 feet; thence run S 80°50'14" E, a distance of  
120.81 feet; thence run N 10°01'18" W, a distance of 259.89 feet;  
thence run S 12°52'34" E, a distance of 6.94 feet; thence run  
S 17°02'19" W, a distance of 41.08 feet; thence run S 17°02'19" W,  
a distance of 14.28 feet; thence run S 14°21'29" E, a distance of  
69.13 feet; thence run S 39°56'11" E, a distance of 64.95 feet;  
thence run S 00°25'41" E, a distance of 27.74 feet; thence run  
S 21°17'04" E, a distance of 17.14 feet; thence run S 22°51'22" E,  
a distance of 25.00 feet to the point of beginning.

EXHIBIT 'D'





# Quit Claim Deed

FROM ESSEX COUNTY

TO

Date

D.R. 1418 PG 1719



County of \_\_\_\_\_  
State of Florida.

I HEREBY CERTIFY, that on this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 19 \_\_\_\_\_ and before me personally appeared \_\_\_\_\_, a corporation duly organized under the laws of the State of Florida, to me known to be the person described in and who executed the foregoing instrument in and to the said \_\_\_\_\_, a Florida limited partnership, and personally acknowledged the execution thereof to be their free act and deed as their official act and deed in the County of \_\_\_\_\_ and State of Florida, the day and date of this acknowledgment, and the said instrument is the act and deed of said corporation, and the said partnership.

My Commission Expires \_\_\_\_\_  
Notary Public



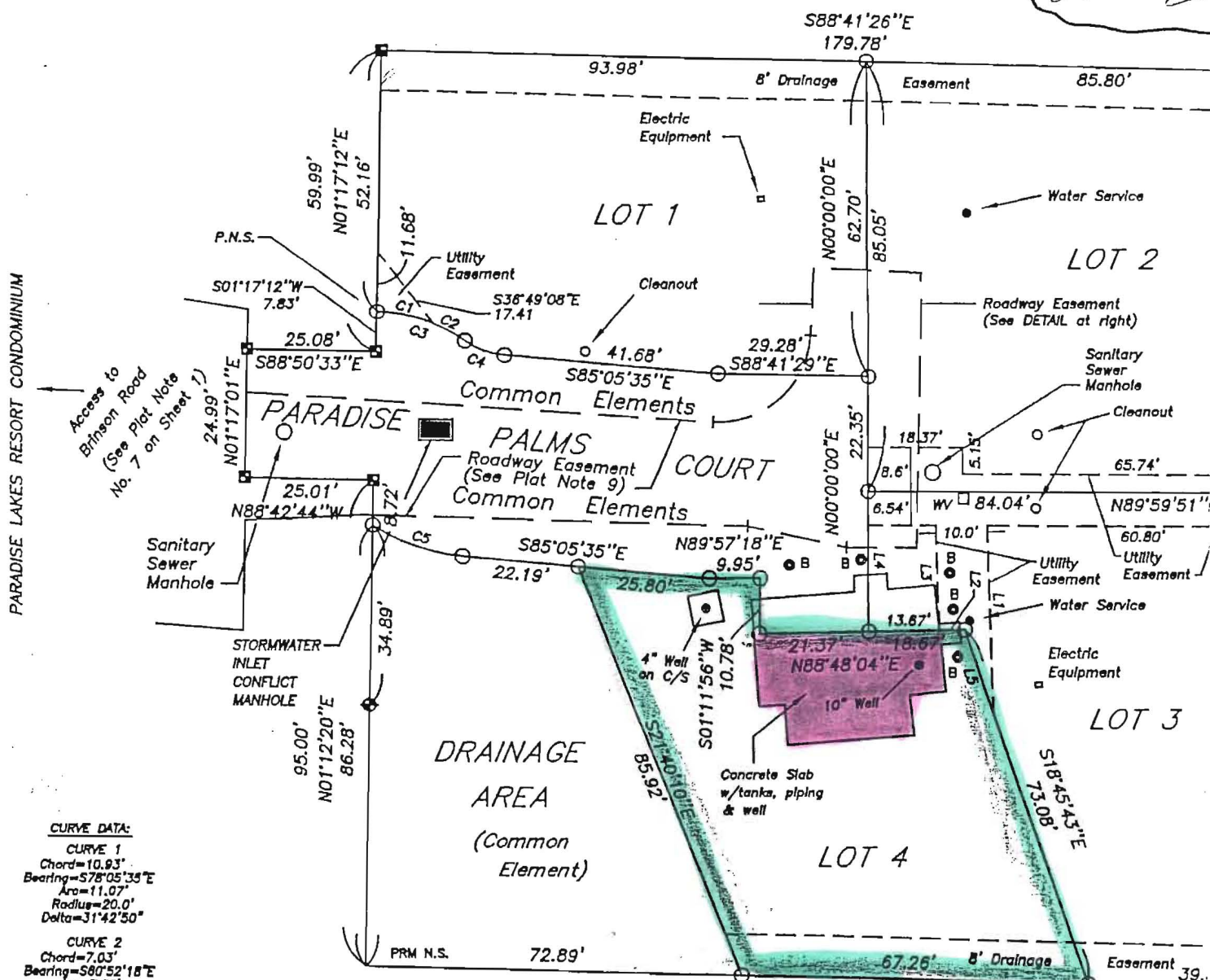
# PARADISE PALMS, A CC 'DOMINIUM

A PORTION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF TOWNSHIP 26 SOUTH, RANGE 18 EAST, PASCO COUNTY, FL

PARADISE LAKES RESORT CONDOMINIUM

*Handwritten signature/initials*

(Camper)



**CURVE DATA:**

- CURVE 1**  
Chord=10.93'  
Bearing=S78°05'35"E  
Arc=11.07'  
Radius=20.0'  
Delta=31°42'50"
- CURVE 2**  
Chord=7.03'  
Bearing=S80°52'18"E  
Arc=7.06'  
Radius=20.0'  
Delta=20°14'12"
- CURVE 3**  
Chord=17.78'  
Bearing=S71°22'02"E  
Arc=18.41'  
Radius=20.0'  
Delta=52°43'53"
- CURVE 4**  
Chord=8.00'  
Bearing=S69°37'10"E  
Arc=8.10'  
Radius=15.0'  
Delta=30°56'50"
- CURVE 5**  
Chord=18.28'  
Bearing=N70°23'04"W  
Arc=18.48'  
Radius=36.0'  
Delta=29°25'01"
- CURVE 6**  
Chord=25.46'  
Bearing=N48°39'15"W  
Arc=28.27'  
Radius=18.0'  
Delta=90°00'00"

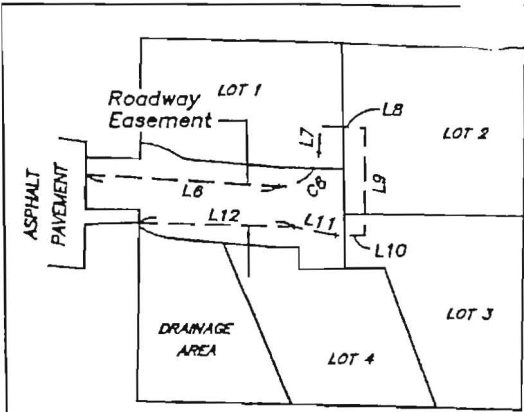
**LINE DATA:**

- |                                        |                                       |                                        |                                        |                                        |                                        |                                        |                                        |                                        |                                         |                                         |                                         |
|----------------------------------------|---------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|-----------------------------------------|-----------------------------------------|-----------------------------------------|
| <b>LINE 1</b><br>36.23'<br>S01°38'05"E | <b>LINE 2</b><br>5.00'<br>N88°48'04"E | <b>LINE 3</b><br>20.32'<br>S01°38'05"E | <b>LINE 4</b><br>27.10'<br>N00°00'00"E | <b>LINE 5</b><br>18.95'<br>S18°45'43"E | <b>LINE 6</b><br>90.48'<br>S86°20'45"E | <b>LINE 7</b><br>13.30'<br>N03°39'15"E | <b>LINE 8</b><br>20.77'<br>S87°27'37"E | <b>LINE 9</b><br>53.67'<br>S01°08'19"W | <b>LINE 10</b><br>13.80'<br>N59°45'38"W | <b>LINE 11</b><br>19.81'<br>N77°48'42"W | <b>LINE 12</b><br>72.53'<br>N88°24'29"W |
|----------------------------------------|---------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|----------------------------------------|-----------------------------------------|-----------------------------------------|-----------------------------------------|



NOTICE: THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DEPICTED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

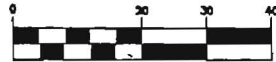
M  
SECTION 35,  
FLORIDA  
*catch*



DETAIL: (Not to Scale)

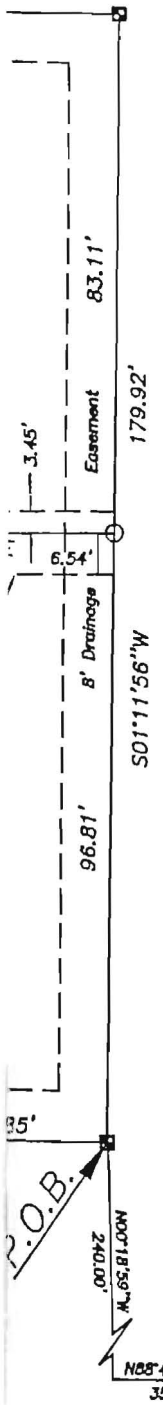
To show Roadway Easement (See Plat Note 9)  
Roadway Easement contains 0.0085 acres, more or less

GRAPHIC SCALE



PARADISE LAKES RESORT CONDOMINIUM

*Approximate location of water land transferred in 1985*  
*Outer boundary of new water plant land*



LEGEND

- SET CONCRETE MONUMENT 4"X4" LICENSED BUSINESS #7318 (PERMANENT REFERENCE MONUMENT)
- PRM N.S. PRM NOT SET AT PLAT'S CORNER, POINT FALLS IN WATER
- ⊙ O.S. PRM OFFSET PRM; WITNESS MONUMENT SET, 4"X4" CONCRETE MONUMENT LB 7318
- SET CAPPED IRON ROD 1/2" LICENSED BUSINESS #7318
- U.E. UTILITY EASEMENT
- P.O.B. POINT OF BEGINNING
- P.N.S. POINT NOT SET, FALLS IN DRAINAGE STRUCTURE. WITNESS POINT IS S01°17'12"W, 7.83'
- WV WATER VALVE
- C/S CONCRETE SLAB
- B BOLLARD
- L1 LINE 1
- L2 LINE 2

OR BK 5999 PG 1701  
26 of 53

OF COMMENCEMENT;  
CORNER OF  
1/4 OF NE 1/4  
Section 35-26-18

PREPARED BY:  
Select Surveying, Inc.  
Licensed Business Number 7318  
315 S. Delaware Ave. #2  
Tampa, Florida 33606  
PH. (813) 258-3210 FAX 253-8519