



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

To: Board of County Commissioners
Through: Robert A, McMillan, County Attorney
From: Stephen P. Lee, Deputy County Attorney
Date: March 31, 2005

Subject: Seminole County v. Wyman Fields Foundation, Inc., Case No. 02-CA-2964-14-L; Florida Housing Finance Corp v. Seminole County, Case No. 03-CA-2584-14-G

RECOMMENDATION: Approve settlement of the captioned cases by payment to the County in the amount of \$228,000.00, made on behalf of Wyman Fields Foundation. Authorize the Chairman to execute a release in exchange for payment. If this settlement is approved, the foreclosure case filed by Seminole County will be dismissed with prejudice and the County will no longer participate in the second case as it will no longer have a lien against the property.

BACKGROUND: Pursuant to a contract with Wyman Fields Foundation, Inc. ("Wyman"), Seminole County agreed to reimburse Wyman for its actual expenses incurred in building low income housing units in a development known as the Hamlet. After paying Wyman approximately \$228,000 the County learned that several of the vendors had not been paid, either in whole or part. Wyman failed to produce any low income housing and ultimately sold part of the Hamlet development to a third party. In 2002 the Board approved a release of lien as to the part sold, leaving the lien in place against the remainder of the property. Also in 2002 the County filed a foreclosure suit to foreclose its lien against the remaining property. Thereafter, in 2003, the State of Florida also filed a foreclosure suit to foreclose its lien against the property (the State's lien is superior to the County's). Wyman has now arranged to sell the remaining property to another third party and has agreed to pay the County a total of \$228,000.00 in exchange for a release and dismissal of our foreclosure suit.

RECOMMENDATION: Staff recommends approval of the proposed settlement. Pursuit of the foreclosure action would not result in any recovery as the State's lien is superior to the County's and the value of the property at a judicial sale is not likely to yield enough to pay both liens in full. The State sold its lien to a third party, who is also

being paid in full as part of the purchase of the property from Wyman Fields Foundation. There are criminal charges filed against the principal of Wyman Fields, Candace Birle, arising out of the Hamlet Development. We understand that Ms. Birle hopes to pursue some plea arrangement with the State of Florida when all claimants have been paid. Both Wyman Fields and Ms. Birle have been told that the County cannot dispose of or make any promises regarding the criminal charges, however, would inform the authorities that payment has been made. We have been told that Ms. Birle will not receive any money from this transaction.