



COUNTY ATTORNEY'S OFFICE
MEMORANDUM

TO: Board of County Commissioners

THROUGH: Stephen P. Lee, Deputy County Attorney

FROM: Henry M. Brown, Assistant County Attorney *HMB*
Ext. 5736

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
Kathleen Myer, Principal Engineer/Engineering Division *KM*

DATE: October 13, 2003

SUBJECT: Binding Offer of Judgment Authorization
East Lake Mary Boulevard Phase I
Parcel Nos. 105/705/805
Seminole County v. American Bronze Fine Art Foundry, Inc., et al
Case No. 00-CA-1910-13-L
Owner: Humphrey Realty Corp.

This Memorandum requests authorization by the Seminole County Board of County Commissioners (BCC) to make offer(s) of judgment as to Parcel Nos. 105/705/805 in an amount not to exceed \$200,000.00.

I PROPERTY

A. Location Data

The parcels are located along the north side of East Lake Mary Boulevard Phase I at the intersection with Mellonville Avenue. A location map is attached as Exhibit A and a parcel sketch as Exhibit B.

B. Street Address

1201 Cornwall Road
Sanford, FL 32771

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 96-R-188 on September 10, 1996, finding that the East Lake Mary Boulevard Phase I Project was necessary and serves a County and public purpose and is in the best interest of the citizens of Seminole County.

III ACQUISITIONS/REMAINDERS

The fee simple acquisition consists of a 30' strip across the East Lake Mary Boulevard frontage. Parcel Nos. 705 and 805 are easements for construction of the retention pond. The building on the remainder is not impacted, in fact, it is enhanced by the Engineering Division's addition of a truck specific access drive on Mellonville Avenue.

IV APPRAISED VALUES

The County's appraisal report was prepared by Clayton, Roper, and Marshall and opined full compensation to be \$121,000.00. The County's report replaced parking at a \$47,900.00 cure cost. The owner's appraisal report was prepared by Calhoun, Dreggors and Associates, Inc., and opined full compensation at \$503,400.00. This opinion contained a massive cost to cure valued at \$183,500.00 to replace parking. The opinion also claims a damage of \$154,500.00 due to the loss of use of one truck bay as a result of the County's addition of an additional truck access driveway.

V MEDIATION CONTINUANCE

A Mediation was held on October 9, 2003, a mediated settlement was not achieved. The mediation was continued. The great disparity in value caused the continuance with the damage claim of \$154,500.00 due to loss of one truck bay difficult to address when the County's design plans enhance truck access to the property by adding a new driveway.

The case will be set for trial in early 2004. However, the continued mediation could still result in a settlement. Mediations are held under confidentiality orders. As a result, specific discussion of the positions of the parties, basis for those positions, and the monetary amounts of the negotiations that occurred during the mediation cannot be disclosed.

VI ANALYSIS

The requested not-to-exceed offer of judgment at \$200,000.00 if accepted would resolve the case with the attorney fee reimbursement capped at \$17,531.25. Costs would still be outstanding. If not accepted, the impact is that expert costs are not reimbursed for time expended after rejection of the offer of judgment if a verdict or settlement is less than the offer of judgment amount. Also, the issuance of the offer of judgment exposes the owner's experts to a risk of not being paid additional costs. This

results in the owner's experts being somewhat restrained in their work effort time between mediation, later settlement, or trial. If the BCC does not authorize the offer of judgment, then the experts will run up the bill between mediation, later settlement or trial. Thus, the issuance of the offer of judgment at this time potentially settles the case at \$200,000.00, and if not settled places the experts at risk and results in some limitations on the run-up the bill strategies of the owner's experts.

VII RECOMMENDATION

This office recommends that the BCC authorize the issuance of offer(s) of judgment not-to-exceed \$200,000.00.

HMB/dre

Attachments:

Location Map (Exhibit A)

Sketch (Exhibit B)

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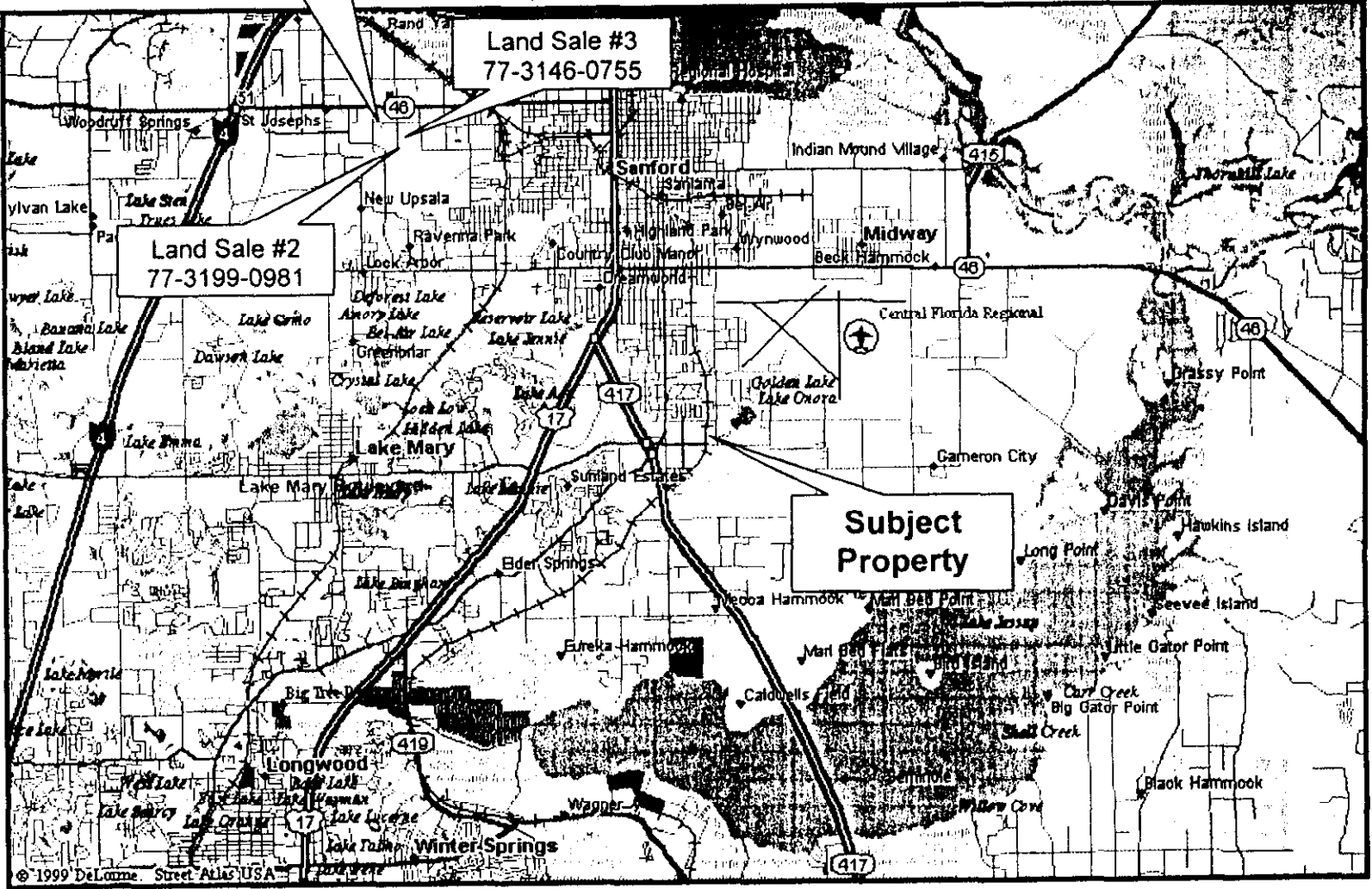
Land Sale #1
77-3419-504

Land Sale #3
77-3146-0755

Land Sale #2
77-3199-0981

Subject
Property

LAND SALES LOCATION MAP



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