



Broward County

Legislation Details (With Text)

File #:	21-752	Version:	1	Status:	Agenda Ready
		In control:	County Administration - Real Property Section		
On agenda:	5/4/2021	Final action:	5/4/2021		
Title:	A. MOTION TO APPROVE Agreement for Resolution of Disputes Between Broward County and NuRiver Landing Condominium Association, Inc. related to rent overpayment and the amount owed by the County, use and operation of Smoker Park, encroachment of Savor Cinema; and application of sales tax related to the payment of Rent; and authorize the Mayor or Vice-Mayor and Clerk to execute the Agreement. (Commission District 7)				
	(Per the Tuesday Agenda Memorandum, the Board's consideration of the item will be based on the revised agreement distributed as additional material.)				
	(Transferred to the Consent Agenda.)				
	ACTION: (T-10:54 AM) Approved as amended with Yellow-Sheeted Additional Material, dated May 4, 2021, submitted at the request of County Administration.)				
	VOTE: 9-0.				
	B. MOTION TO APPROVE Amended and Restated Park Easement Agreement Between Broward County, NuRiver Landing Condominium Association, Inc., and the City of Fort Lauderdale transferring responsibilities from NuRiver to City; authorize the Mayor or Vice-Mayor and Clerk to execute the easement; and authorize recordation of same. (Commission District 7)				
	(Per the Tuesday Agenda Memorandum, City's signature page has been received.)				
	(Transferred to the Consent Agenda.)				
	ACTION: (T-10:54 AM) Approved.				
	VOTE: 9-0.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	1. Exhibit 1 - NuRiver and Broward County Settlement Agreement-CAO, 2. Exhibit 2 - Amended and Restated Smoker Park Easement, 3. Exhibit 3 - Property Datasheet 504210BE0001, 4. Additional Material - Information				

Date	Ver.	Action By	Action	Result
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Broward County Commission Regular Meeting

Director's Name: Bertha Henry

Department: County Administration

Division: Real Property

Information

Requested Action

A. MOTION TO APPROVE Agreement for Resolution of Disputes Between Broward County and NuRiver Landing Condominium Association, Inc. related to rent overpayment and the amount owed by the County, use and operation of Smoker Park, encroachment of Savor Cinema; and application of sales tax related to the payment of Rent; and authorize the Mayor or Vice-Mayor and Clerk to execute the Agreement. **(Commission District 7)**

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(Transferred to the Consent Agenda.)

ACTION: (T-10:54 AM) Approved.

VOTE: 9-0.

Why Action is Necessary

Board action is necessary to approve settlement agreements and easement agreements.

What Action Accomplishes

Motion A. Approves an agreement resolving disputes between the County and NuRiver Landing Condominium Association, Inc.

Motion B. Approves Amended and Restated Easement Agreement.

Is this Action Goal Related

No

Previous Action Taken

None.

Summary Explanation/Background

The County originally entered into this lease with Riverview of Fort Lauderdale in June of 1992. The lease as amended eight times ("Amended Lease") provides that NuRiver Landing Condominium

Association, Inc. ("NuRiver") is the tenant for a portion of the leased premises. NuRiver recently approached the County to request a review of the rent paid under the Amended Lease. After a review, it was determined that NuRiver had overpaid rent, however the County and NuRiver dispute the amount of interest on the overpayment. Also, under the terms of the Amended Lease and a Park Easement Agreement between the County, City of Fort Lauderdale ("City") and NuRiver, NuRiver is responsible for Smoker Park from sunset to sunrise and currently pays rent based on area occupied by Smoker Park as well as a portion of property occupied by Savor Cinema. Finally, while the County has billed NuRiver for sales tax based on an informal opinion from the Florida Department of Revenue, NuRiver has asserted no sales tax is due under the Amended Lease.

The general purpose of the agreements listed in this agenda is to solve ongoing disputes between the County and NuRiver Landing Condominium Association, Inc. and transfer full maintenance responsibilities for Smoker Park to the City of Fort Lauderdale, under an Amended and Restated Park Easement.

The purpose of each agreement is as follows:

A. Agreement for Resolution of Disputes Between Broward County and NuRiver Landing Condominium Association, Inc.

Addresses the following ongoing disputes:

- i) NuRiver has made an overpayment of its rent payments due, and the Parties dispute the amount owed by the County to NuRiver as a result of the overpayment, the agreement settles the Rent Overpayment at \$345,548.
- ii) NuRiver contends that the City of Fort Lauderdale ("City") uses Smoker Park, which is a part of the Leased Premises, in a manner that is inconsistent with the Park Easement Agreement. The agreement provides that Smoker Park will remain in the leased premises but NuRiver will have no rights or responsibility for Smoker Park other than those provided to the public in general as provided in the Amended and Restated Park Easement Agreement Between Broward County, NuRiver Landing Condominium Association, Inc., and City of Fort Lauderdale, and as a result, NuRiver will receive a 34.53% discount (based on the footprint of Smoker Park) on all rent payments after the effective date.
- iii) NuRiver contends that Savor Cinema, which operates on property leased from the County adjacent to the Leased Premises, has encroached upon approximately 2,585 sq. ft. of the Leased Premises. The agreement allows for a 1.2% discount on all rent payments after the effective date; and
- iv) The County has been billing NuRiver for sales tax related to the payment of Rent but NuRiver contends that its Rent payments under the Amended Lease are exempt from the obligation to pay sales tax. The agreement states that NuRiver will pursue a written opinion from the State of Florida Department of Revenue ("DOR") regarding NuRiver's obligation to pay sales tax on Rent payments due under the Amended Lease and act according to DOR's response.

B. Amended and Restated Park Easement Agreement Between Broward County, Nuriver Landing Condominium Association, Inc., and City of Fort Lauderdale.

The Amended and Restated Park Easement expands the public park easement and transfers

all maintenance responsibilities for Smoker Park from NuRiver to the City of Fort Lauderdale.

All documents have been reviewed and approved as to form by the Office of the County Attorney.

Source of Additional Information

Lary S. Mahoney, Director of Real Estate Development, County Administration 954-357-7357

Trevor M. A. Fisher, P.E., MBA, Acting Director, Public Works Department, (954) 357-6410

Fiscal Impact

Fiscal Impact/Cost Summary

The fiscal impact to Broward County is reflected in a reduction of 35.73% of the annual rent charged to NuRiver for the next 75 years equivalent to \$11,861,273.