

Cutler Properties v. SFWMD

Settling an inverse condemnation case

Background

- Inverse condemnation lawsuit alleged taking of property in footprint of SFWMD plans for CERP Biscayne Bay Coastal Wetlands.
- Permit application pending since 2005.
- Mediation in 2009-2010, reached impasse, but landowner asked to reopen, staff agreed.
- Reached “agreement in principle” last month, now have all documents in order.

Terms of Settlement: Dollars

- Voluntary transaction
- \$24.5 million, in two installments:
 - \$10 million at March 30, 2010 closing
 - \$14.5 million 30 days after closing
- Save our Everglades funds
 - Coordinated with Florida DEP

Terms of Settlement: Conditions

- Complete resolution
 - Waiver & release of all current and future claims
- But five-step process:
 1. Parties approve settlement
 2. Parties approve contract
 3. Court dismisses case
 - Without prejudice, Plaintiffs will refile if no closing
 4. Closing and payment
 - Court retains jurisdiction to enforce 2nd payment
 5. Withdraw permit application

Resolution

- Authorize settlement and execution of documents in Cutler Properties v. SFWMD, Case No. 08046701 CA 5 (11th Judicial Circuit)
 - Also acknowledges successful mediation