

# Memo

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TO: Mayor and Town Council

VIA: Kirk Blouin, Town Manager

FROM: John C. Randolph, Town Attorney

RE: 247 Miraflores Drive, El Paraiso Subdivision

DATE: September 25, 2018

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## **REQUEST FOR MOTION TO APPROVE STIPULATION**

It is requested that Town Council give consideration to approving the attached Stipulation foreclosing the Town's interest to a 1,572 square foot parcel of private property that comprises a now unused portion of formerly serpentine Miraflores Drive in front of the property of Laetitia Oppenheim.

## **SUMMARY OF LAWSUIT**

In November 2017, Laetitia Oppenheim, owner of 247 Miraflores Drive, filed suit against all of the lot owners in the El Paraiso Subdivision to quiet title and extend the boundary of her property on Lots 14 and 15 to encompass that 1,572 square foot portion of private property that comprised a now-straightened serpentine road. The Town was named in the litigation because it owns Lots 1 and 2 in the El Paraiso Subdivision. See *Oppenheim v. Town of Palm Beach, et al.*, Case No. 502017CA012106XXXXMB (15<sup>th</sup> Jud. Cir. in and for Palm Beach Cty., Fla.). Those Town lots are operated as Dean Park at Miraflores and Tangier)

## **BACKGROUND**

Ms. Oppenheim's property is in the subdivision of El Paraiso, which comprises lots 1 through 20 on the north side of Miraflores Drive. At the time that El Paraiso was platted in or about 1924, Miraflores Drive was a private, serpentine road. All of the subdivision owners acquired a private right to use the serpentine road.

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More than 75 years ago (by 1941), Miraflores Drive was straightened out to the south and became a public road. After the road was straightened, each of the El Paraiso property owners retained the private right to use the unused portion of the formerly serpentine road.

My real estate partner Mark Dahlmeier reviewed the complaint, the plats and further requested that Wallace Surveying provide a sketch that overlays the 16' platted private serpentine road on the Oppenheim property, the 1,572 square foot subject parcel, and the now straightened public road. This was done to confirm that no portion of the property to which Ms. Oppenheim seeks to quiet title is public property. The sketch provided by Wallace Surveying is attached and confirms that the parcel to which Ms. Oppenheim seeks to quiet title is private.

### **RECOMMENDATION**

The Mayor and Town Council should give consideration to approving the attached Stipulation foreclosing the Town's interest as one of the El Paraiso subdivision lot owners to that 1,572 square foot parcel of private property at issue and acknowledging no objection to the declaratory and equitable relief sought by Ms. Oppenheim. Ms. Oppenheim has obtained nearly identical stipulations or default judgments in this case against almost all of the other lot owner defendants. Alternatively, the Council should give direction to staff and Town Attorney as to how to proceed.

Attachments: 9/10/18 Sketch by Wallace Surveying; 1941 Plat Drake Park; 1924 Plat El Paraiso; proposed Stipulation in *Oppenheim v. Town of Palm Beach, et al.*, Case No. 502017CA012106XXXXMB