



Office of

Attorney's Matters 07/06/2021

**INDIAN RIVER COUNTY  
ATTORNEY**

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Dylan Reingold, County Attorney  
William K. DeBraal, Deputy County Attorney  
Susan J. Prado, Assistant County Attorney

**MEMORANDUM**

**TO:** The Board of County Commissioners

**THROUGH:** Richard B. Szyrka, P.E., Public Works Director

**FROM:** William K. DeBraal, Deputy County Attorney

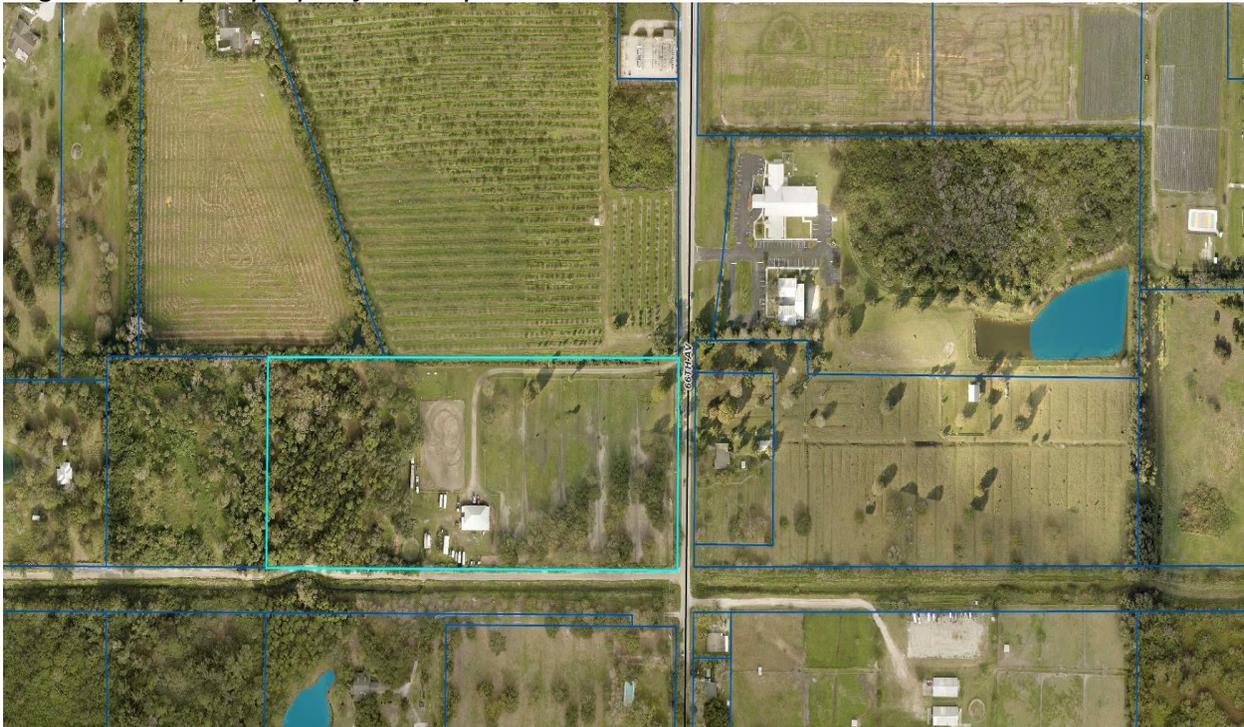
**DATE:** June 29, 2021

**SUBJECT:** Acquisition of Right-Of-Way from the Fredrick L. Lipfert and Norma C. Lipfert Trust for Phase II of 66<sup>th</sup> Avenue Improvements – 7905 66<sup>th</sup> Avenue, Parcel 127

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The Fredrick L. Lipfert and Norma C. Lipfert Trust (the Lipferts) is the owner of a 12.25 acre parcel of property on the west side of 66<sup>th</sup> Avenue as shown below as *Figure 1*.

*Figure 1. Lipfert property aerial photo*



The County needs to acquire a 1.07-acre strip of right-of-way along the eastern boarder of the property. The oblong strip extends 455' along 66<sup>th</sup> Avenue beginning at a width of 126 feet at the south narrowing to 68 feet at the north end of the property. The property is used for horse boarding and is improved with a barn, riding ring, a small residence and pastures divided into five paddocks. Improvements to the property to be taken include fencing, shade trees, a driveway and a part of the eastern most pasture paddock. The property is zoned A-1, Agricultural, up to one unit per five acres. The property also has a tenant, Empire Equine, owned by Amanda Tongay. Ms. Tongay operates a horse boarding business on the property and resides in the small residence on site. According to state statutes, tenants are entitled to notice and possible damages due to the take. Ms. Tongay, through her attorney Mickey Barkett, is in the process of compiling documents to be reviewed by the County in order to assess her damage claim. This settlement with Mr. Lipfert will not affect the potential claim of Empire Equestrian.

Please see the sketch and legal description attached to the Agreement that is included with this memorandum. Mr. Lipfert has asked and the County has agreed that at the time of construction of this phase of 66<sup>th</sup> Avenue, that the fence will be either relocated or replaced at the new right-of-way line at the County's expense.

The County's appraisal for Parcel 127 was performed by Armfield & Wagner. They assigned a value of \$28,400 for the land and \$7,500 for the improvements for a total of \$35,900. The appraisal did not find any severance damages.

Mr. Lipfert counter offered with \$42,500 per acre for the land and the County would relocate or repair the fencing at the County's expense.

**Total acquisition cost for Parcel 127** 1.07 acres @\$42,500/acre = \$45,475. There are no expert witness fees or attorney's fees in this acquisition.

By comparison, in February 2017, the County purchased the 18.72-acre Greene property located at the northeast corner of 66<sup>th</sup> Avenue and 53<sup>rd</sup> Street for a future stormwater park for \$558,900 (\$29,855 per acre) which was an arm's length transaction without the threat of eminent domain. The County previously purchased the Miami Block from Central Groves at the southwest corner of 66<sup>th</sup> Avenue and 69<sup>th</sup> Street for \$35,250/acre for the entire 18.59 parcel (\$655,298.00) and \$42,500/acre for 13.78 acres from Central Groves on the west side of 66<sup>th</sup> Avenue at 61<sup>st</sup> Street.

As this acquisition did not involve any fees or costs, staff has followed the Board's direction of maximizing the return to the landowner.

**STAFF RECOMMENDATION:** Staff recommends the Board approve the Agreement for the Lipfert property and authorize the Chairman to execute the document on behalf of the Board.

Lipfert 66th Avenue Parcel 127

June 30, 2021

Page | 3

**FUNDING:** Funding in the amount of \$45,475 for the acquisition is budgeted and available from Traffic Impact Fees/District I/ROW/66<sup>th</sup> Ave/69<sup>th</sup> Street – 85<sup>th</sup> Street, Account # 10215141-066120-16009

Attachments: Agreement with the sketch and legal description of right-of-way Parcel 127.

Copies to: Fredrick Lipfert