

Joy LeggettMurphy

From: William Clague
Sent: Friday, August 31, 2018 4:35 PM
To: Joy LeggettMurphy
Cc: Mitchell Palmer; Alex Nicodemi; Charlie Bishop; Juliet Shepard
Subject: Refund of Deposit for Surplus Property; RLS-2018-0438

Joy:

Pursuant to the above Request for Legal Services you have asked this Office to advise whether the County may legally refund the security deposit held for the pending sale and purchase of County property. I provide the following legal advice in response:

1. As noted in the RLS, the County entered into a Contract for Sale and Purchase of Real Property (the "Contract") with the buyer pursuant to a competitive sale in accordance with Florida Statute 125.35. The Contract was approved by the Board on June 12, 2018. During the due diligence period, the buyer determined that establishing legal access to the property would be very difficult. The buyer now wishes to be released from the obligation to purchase the property, and has requested that the County refund the security deposit paid to the County pursuant to the Contract.
2. Under the circumstances set forth in the RLS, the Contract does not provide any mechanism to release the buyer from the obligation to purchase the property, or to refund the security deposit to the buyer. Nor does the Contract provide any delegation of authority to staff to waive the requirements set forth in the Contract.
3. Under general contract law, the parties may, however, agree to amend the Contract to provide for the release of the buyer and the refunding of the security deposit. Such an amendment must be set forth in writing and executed by both parties after it has been approved by the Board. In the event that you decide to proceed with such an amendment, please submit a draft to this Office for review before scheduling it for Board consideration. We express no opinion as to the business judgement of entering into such an amendment.

This concludes our response to the RLS.

William Clague, Assistant County Attorney
Manatee County Attorney's Office
1112 Manatee Avenue West
Bradenton, FL 34205
(941)745-3750
william.clague@mymanatee.org

Charles Meador

From: William Clague
Sent: Thursday, January 03, 2019 2:23 PM
To: Charles Meador
Cc: Juliet Shepard
Subject: RE: Refund of Deposit for Surplus Property; RLS-2018-0438
Attachments: Amendment to Contract for Sale and Purchase - Kushmer (CAO Comments).docx

Charles:

Attached are my redlined comments.

William Clague, Chief Assistant County Attorney
Manatee County Attorney's Office
1112 Manatee Avenue West
Bradenton, FL 34205
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From: Charles Meador
Sent: Wednesday, January 2, 2019 10:24 AM
To: William Clague <william.clague@mymanatee.org>
Cc: Juliet Shepard <juliet.shepard@mymanatee.org>
Subject: Refund of Deposit for Surplus Property; RLS-2018-0438

Bill,

I am resending per your request today.

Thank you,

Charles Meador
Property Acquisition Division
1112 Manatee Avenue West, Suite 800
Bradenton, FL 34205
941.748.4501 Ext.6289
charles.meador@mymanatee.org

From: Charles Meador
Sent: Monday, November 19, 2018 10:52 AM
To: William Clague (william.clague@mymanatee.org) <william.clague@mymanatee.org>
Cc: Juliet Shepard <juliet.shepard@mymanatee.org>
Subject: Refund of Deposit for Surplus Property; RLS-2018-0438

Bill,