

COMMISSION AGENDA:

4.7.09 # 20e

TO: The Honorable Chairman and Members of the
Board of County Commissioners

FROM: James L. Bennett, County Attorney

JLB

SUBJECT: Authority for the County Attorney to Defend the Case of Robert Root v. FTBA Limited, a Dissolved Texas Limited Partnership, Formerly Known as Crow-Childress-Harrod #2, Ltd, The Florida Department of Transportation, and Pinellas County, a Political Subdivision of the State of Florida
Circuit Civil Case No. 09-002651-CI-015

DATE: April 7, 2009

RECOMMENDATION: I RECOMMEND THAT THE BOARD OF COUNTY COMMISSIONERS AUTHORIZE THE COUNTY ATTORNEY'S OFFICE TO DEFEND THE ABOVE-STYLED CASE.

DISCUSSION: This case arises from a tax deed sale in which the Plaintiff seeks to quiet title. The Complaint does not assert Pinellas County has any asserted interest. Research by the County Attorney's Office of county records for any liens or asserted claims to title of this property yielded no such claims or rights.

Review of this with Plaintiff's Counsel confirmed that Pinellas County was named solely as a hedge against the possibility the County would assert some unknown interest.

I recommend the County inform the Court it has no claimed interest and seek to be dismissed.

JLB:TES

Attachment

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IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY, FLORIDA
CIRCUIT CIVIL CASE NO. _____

ROBERT ROOT

Plaintiff,

vs.

FTBA LIMITED, a dissolved Texas limited partnership,
formerly known as CROW-CHILDRESS-HARROD #2, LTD,
THE FLORIDA DEPARTMENT OF TRANSPORTATION,
and PINELLAS COUNTY, A POLITICAL SUBDIVISION
OF THE STATE OF FLORIDA

Defendants.

COMPLAINT TO QUIET TAX TITLE

Plaintiff, ROBERT ROOT, by and through its undersigned counsel, sues Defendants, FTBA LIMITED, a dissolved Texas limited partnership, formerly known as CROW-CHILDRESS-HARROD #2, LTD., THE FLORIDA DEPARTMENT OF TRANSPORTATION, and PINELLAS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, and alleges as follows:

COUNT I

1. This is an action to quiet title to certain real property situated in Pinellas County, Florida, filed pursuant to F.S. 65.081. Alternatively, in the event that Plaintiff's tax deed title is determined to be invalid as to the Defendant, this is also an action to foreclose a statutory lien for such invalidated tax deed pursuant to the provisions of F.S. 197.602.

2. Plaintiff owns the following described real property in Pinellas County, Florida:

See legal description is attached hereto as Exhibit "A"

Plaintiff deraigns title to the real property as follows:

3. On March 24, 2005, the County of Pinellas, State of Florida, conveyed the subject real property, as included in a larger parcel of property, to Plaintiff by tax deed, recorded on March 25, 2005, in Official Records Book 14200, Page 1266, of the Public Records of Pinellas County, Florida. A copy of the tax deed is attached hereto and marked as Exhibit "B".

4. At the time Plaintiff acquired title by tax deed, title to the real property, as included in a larger parcel of real property, was vested in the name of the Defendant, CROW-CHILDRESS-HARROD #2, LTD., now known as FTBA LIMITED, a dissolved Texas limited partnership, by virtue of a certain warranty deed dated April 18, 1983, and recorded on April 18, 1983, in Official Records Book 5509, Page 2051, of the Public Records of Pinellas County, Florida. A copy of said deed is attached and marked as Exhibit "C".

5. Defendant, CROW-CHILDRESS-HARROD #2, LTD, subsequently filed an amendment with the State of Florida Department of State dated November 7, 1990 in which Defendant changed its name from: CROW-CHILDRESS-HARROD #2, LTD. to: FTBA LIMITED. Said Amendment was recorded on November 26, 1990, in Official Records Book 7433, Page 2250, of the Public Records of Pinellas County, Florida. A copy of said amendment is attached and marked as Exhibit "D".

6. Defendant, FTBA LIMITED, a dissolved Texas limited partnership, formerly known as CROW-CHILDRESS-HARROD #2, LTD. subsequently voluntarily cancelled its foreign filing status with the State of Florida Department of State on February 2, 1994, and also filed a Cancellation of Certificate of Limited Partnership with the State of Texas Secretary of State dated March 14, 1994.

7. Any and all claims, right, title or interest of the Defendant, FTBA LIMITED, a dissolved Texas limited partnership, formerly known as CROW-CHILDRESS-HARROD #2, LTD., to the real property described herein had been extinguished by the tax deed described herein to Plaintiff as

described herein, Plaintiff is the true record title owner to the real property and the legal and equitable owner thereof in fee simple, and as such, is entitled to have its title to the real property quieted and confirmed by the court under the provisions of F.S. 65.081.

8. Pleading in the alternative, Plaintiff requests that if this court determines that the tax deed title of Plaintiff is void as to the Defendant, the court determine in its final judgment that Plaintiff holds a good and valid lien on the subject real property for the amount of money paid by the Plaintiff for the tax deed (\$30,684.19), together with interest thereon as provided by law from March 24, 2005, and the costs of this action, including attorney's fees.

WHEREFORE, plaintiff, being without remedy save in a court of equity, demands as follows:

A. That upon final hearing the fee simple title to the above described property to be adjudged to be in the Plaintiff.

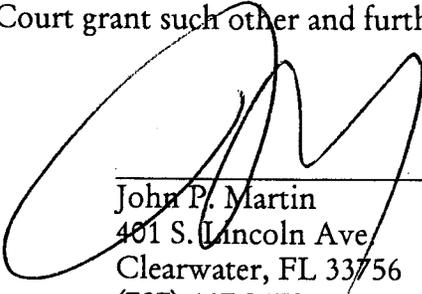
B. That Defendants, FTBA LIMITED, a dissolved Texas limited partnership, formerly known as CROW-CHILDRESS-HARROD #2, LTD., THE FLORIDA DEPARTMENT OF TRANSPORTATION, and PINELLAS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, be required to set forth the nature of their claim in and to the above described property and that all adverse claims by the Defendants or others claiming by, through, under or against defendants be determined by judgment of this Court to be null and void as against the Plaintiff.

C. That all right, title and interest of the Defendants, FTBA LIMITED, a dissolved Texas limited partnership, formerly known as CROW-CHILDRESS-HARROD #2, LTD., THE FLORIDA DEPARTMENT OF TRANSPORTATION, and PINELLAS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, be forever quieted and confirmed in the Plaintiff.

D. That the Defendants, FTBA LIMITED, a dissolved Texas limited partnership, formerly known as CROW-CHILDRESS-HARROD #2, LTD., THE FLORIDA DEPARTMENT OF TRANSPORTATION, and PINELLAS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA. be perpetually enjoined from asserting any right, title, claim or interest in and to the above described property.

E. That in the event the tax deed title to the Plaintiff be invalidated, Plaintiff's statutory lien for the amount paid for the tax deed together with interest thereon, costs, and attorney's fees be foreclosed and that the subject real property be sold by the clerk of the circuit court to satisfy the lien.

F. That the Court grant such other and further relief as it may deem proper in the premises.



John P. Martin
401 S. Lincoln Ave.
Clearwater, FL 33756
(727) 467-9470
Fla. Bar No. 0055440
SPN 01681259
Attorney for Plaintiff

**SPECIFIC PURPOSE SURVEY
(NOT A BOUNDARY SURVEY)**

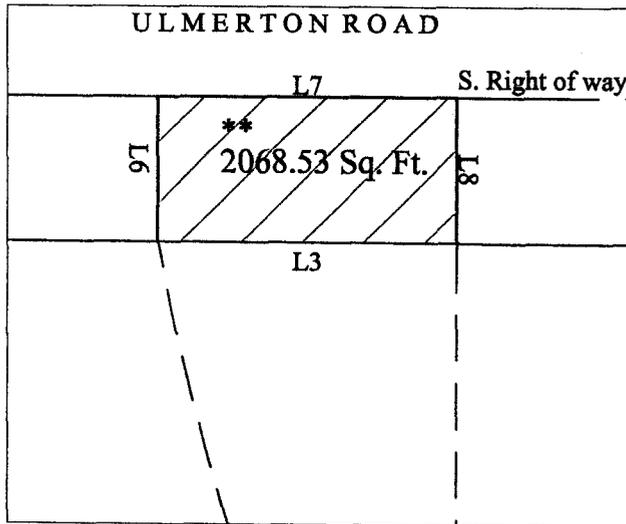
Legal Description:

That certain strip of land lying between the South right-of-way line of Ulmerton Road (State Road No. 688), said right-of-way line lying 40 feet south of the North line of Section 9, Township 30 South, Range 16 East, Pinellas County, Florida, and the North boundary of the following described parcel:

That part of Lot 4 and 5, PINELLAS GROVES, in the Northeast 1/4 of Section 9, Township 30 South, Range 16 East, as recorded in Plat Book 1, Page 55, of the Public Records of Pinellas County, Florida being more fully described as follows:

Commence at the intersection of the South line of said Lot 4 with the West right-of-way line of 49th Street North (50.00-feet, 1/2 width), thence North 00 degrees 05 minutes 37 seconds East, along the said West right-of-way line for a distance of 450.11 feet, to its intersection with the North line of an existing access easement (recorded in Official Records Book 5889, Page 1965, Public Records of Pinellas County, Florida); thence North 86 degrees 02 minutes 31 seconds West, along the Northerly line of the said existing access easement, for a distance of 272.17 feet to the Point of Beginning; thence continue North 86 degrees 02 minutes 31 seconds West, for a distance of 34.08 feet; thence North 00 degrees 01 minutes 16 seconds East, for a distance of 46.98 feet, to the point of a tangent curve, concave Southwesterly; thence along the arc of the said curve, for a distance of 135.00 feet, through a central angle of 26 degrees 13 minutes 13 seconds, having a radius of 295.00 feet, a long chord of 133.83 feet, chord bearing North 13 degrees 05 minutes 21 seconds West; thence North 26 degrees 11 minutes 57 seconds West, for a distance of 503.50 feet, to the point of a tangent curve concave Northeasterly; thence along the arc of the said curve, for a distance of 151.62, through a central angle of 15 degrees 39 minutes 08 seconds, having a radius of 555.00 feet, a long chord of 151.15 feet, chord bearing North 18 degrees 22 minutes 13 seconds West; thence South 89 degrees 57 minutes 22 seconds East, for a distance of 65.00 feet; thence South 00 degrees 02 minutes 38 seconds West, for a distance of 86.43 feet, to the point of a non-tangent curve, concave Northeasterly; thence along the arc of the said curve, for a distance of 44.15 feet, through a central angle of 17 degrees 26 minutes 48 seconds, having a radius of 145.00 feet, a long chord of 43.98 feet, chord bearing South 17 degrees 28 minutes 33 seconds East; thence South 26 degrees 11 minutes 57 seconds East, for a distance of 503.50 feet, to the point of a tangent curve, concave Southwesterly; thence along the arc of the said curve, for a distance of 150.56 feet, through a central angle of 26 degrees 13 minutes 13 seconds having a radius of 329.00 feet, a long chord of 149.25 feet chord bearing South 13 degrees 05 minutes 21 seconds East; thence South 00 degrees 01 minutes 16 seconds West for a distance of 49.32 feet to the Point of Beginning.

DETAIL "A"
(That certain strip of land)



LINE#	BEARING	DIST:
L3	S 89°57'22" E	65.00'
L6	N 00°02'31" E	31.82'
L7	S 89°57'29" E	65.00'
L8	S 00°02'31" W	31.82'

DESCRIPTION TO ACCOMPANY SKETCH:

This survey is not valid without the raised seal and signature of the below Surveyor and Mapper.



JOHN TROELSTRUP LAND SURVEYING
3111 S. KINGS AVENUE
BRANDON, FLORIDA 33511
(813) 477-1872 Http://WWW.JTLS.US

Date: _____
John F. Troelstrup III
Professional Surveyor & Mapper No.5946
State of Florida © 2008 all rights reserved

Job No. ROOT-08-001

Exhibit "B"

"LANDS AVAILABLE FOR TAXES SEC 197.502(7) FLORIDA STATUTES"

TAX DEED

STATE OF FLORIDA
COUNTY OF PINELLAS

TAX DEED NO. 7067

KNOW ALL MEN BY THESE PRESENTS: That Tax Certificate number 7010 Issued the 1ST day of JUNE, A.D., 2000 was duly filed in the Office of the Clerk of the Circuit Court of this County and application made for the issuance of a tax deed thereon; and the applicant having paid or redeemed all other taxes on the lands hereinafter described required by law to be paid or redeemed, and the costs and expenses of this sale; and due notice of sale having been published as required by law, and no person entitled so to do having appeared to redeem said lands; such lands were on the 24th day of MARCH, 2005, sold to:

RETURN TO: ROBERT ROOT
12299 - 90TH AVE
SEMINOLE, FL 33772

for the base bid and all omitted years taxes.

NOW THEREFORE, the County of Pinellas, State of Florida, in consideration of the premises, and in consideration of the sum of (\$ 30,684.19) THIRTY THOUSAND SIX HUNDRED EIGHTY-FOUR 19/100 DOLLARS being the amount paid upon the said tax certificate and for such costs, charges and omitted years taxes, and in pursuance of the statutes in such cases made and provided, has given, granted, bargained and sold, and does hereby give, grant, bargain and sell, and convey to the said ROBERT ROOT

and to his heirs and assigns forever, to their own proper use, benefit and behoof the following lands situated in the County and State aforesaid and described as follows:

PINELLAS GROVES	NE 1/4, PT OF LOTS 5 & 4
DESC FROM NW COR OF NE 1/4	OF NW 1/4 OF NE 1/4 TH S
72FT FOR POB TH E 65FT TH	S 86.43FT TH CUR LT RAD
145FT ARC 44.15FT CB S17DE	43.98FT TH S26DE 503.5FT
TH CUR RT RAD 329FT ARC	150.56FT CB S13DE 149.25FT
S 40.31FT TH W 243.94FT TH	CUR CUR LT RAD 138.97FT
ARC 100FT(S) CB S70DW 97FT	(S) TO W LINE OF LOT 5 TH

N 799FT(S) TO POB CONT 3.58AC(C)
PARCEL #: 09/30/16/70992/100/0500

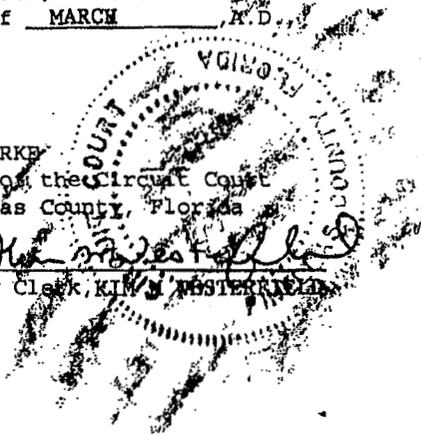
said lands shall continue subject and liable for any unpaid general taxes of equal dignity with county taxes represented by the certificate above described.

This instrument prepared by:
KEN BURKE
Clerk of Circuit Court
315 Court Street
Clearwater, FL 33756
By: KIM M. WESTERFIELD
Deputy Clerk

IN TESTIMONY WHEREOF, by virtue of authority in me vested by law, and for and on behalf of the County of Pinellas, State of Florida, I, the undersigned as Clerk of the Circuit Court for the County and State aforesaid, have executed this deed and have hereunto set my official signature and seal, at Clearwater, in the County of Pinellas, State of Florida, on this 24TH day of MARCH, A.D., 2005.

Signed, sealed and delivered in the presence of:
Teresa G Benzo
Witness TERESA G BENZO
Marion P. Michaels
Witness MARION P MICHAELS

KEN BURKE
Clerk of the Circuit Court
Pinellas County, Florida
By: Kim Westerfield
Deputy Clerk, KIM M WESTERFIELD



STATE OF FLORIDA
COUNTY OF PINELLAS

On this 24TH day of MARCH, A.D., 2005, before me a notary, personally appeared KIM M WESTERFIELD (personally known to me and did not take an oath) as a Deputy Clerk for KEN BURKE, Clerk of the Circuit Court in and for the State and County aforesaid, to me known to be the deputy clerk described in, and who executed the foregoing instrument, and acknowledged the execution thereof to be his/her own free act and deed for the use and purposes therein mentioned, and in the capacity therein indicated.

Witness my hand and official seal date aforesaid.

Molly B. Webb
MOLLY B WEBB
Deputy Clerk



Exhibit "C"

1,100,100

83070742

OR. 5509 P. 2051

WARRANTY DEED
(FROM CORPORATION)

RANGE FORM A-B (PHOTOSTAT)

This Warranty Deed Made and executed the 18th day of April A. D. 1983 by
STANMAR COMPANY, N.V.

a corporation existing under the laws of Netherlands Antilles and having its principal place of
business at
hereinafter called the grantor, to
CROW-CHILDRESS-HARROD, #2, Ltd., a Texas Limited Partnership
whose postoffice address is 5909-D Breckenridge Parkway, Tampa, Florida 33610
hereinafter called the grantees:

(Whoever uses herein the terms "grantor" and "grantee" include all the parties to this instrument and
the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth: That the grantor, for and in consideration of the sum of \$ 10.00 and other
valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell,
alien, remise, release, convey and confirm unto the grantees, all that certain land situate in Pinellas
County, Florida, viz:

Lots 4, 5 and 7, PINELLAS GROVES INC., in the Northeast
1/4 of SECTION 9, TOWNSHIP 30 SOUTH, RANGE 16 EAST, as
recorded in Plat Book 1, page 55, Public Records of
Pinellas County, Florida, LESS road right-of-way for
S.R. 688 on the North and 49th Street North on the
East. 14 14509522 72 1. 10AES

Subject to easements and restrictions of record. 40 5.00
41 5,190.00
0 0,105.00 CK
Subject to taxes for the year 1983 and all subsequent years.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in any
wise appertaining.

To Have and to Hold, the same in fee simple forever.

Had the grantor hereby covenants with said grantees that it is lawfully seized of said land in fee
simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully war-
rants the title to said land and will defend the same against the lawful claims of all persons whatsoever;
and that said land is free of all encumbrances.

Doc Cash 11 CHG Documentary Tax Pd. \$ 8.100
Rec 5.00 \$ Intangible Tax Pd.
DS 2,100.00 Karlow J. DeBlaker, Clerk, Pinellas County
Int Deputy Clerk
Tot 2,108.10

Karlow J. DeBlaker
CLERK CIRCUIT COURT
Apr 18 5 24 PM '83

In Witness Whereof the grantor has caused these presents to
be executed in its name, and its corporate seal to be hereunto affixed, by its
proper officers thereunto duly authorized, the day and year first above written.

ATTEST: _____ Secretary STANMAR COMPANY, N.V.
Signed, sealed and delivered in the presence of:
Warren A. Wilson
Bea S. Wilson
By: _____
NICK KAPIOLTAS, as Attorney-in-fact and agent

STATE OF FLORIDA
COUNTY OF PINELLAS
I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments,
personally appeared NICK KAPIOLTAS, as Attorney-in-fact and Agent of
Stanmar Company, N.V.
well known to me to be the _____
in the foregoing deed, and that they severally acknowledged executing the same in the presence of me, and that they acknowledged freely and voluntarily
under authority duly vested in them by said corporation and that the real affixed therein is the true and lawful seal of said corporation.
WITNESS my hand and official seal in the County and State here aforesaid this 18th day of April, A. D. 1983

This Instrument prepared by: and return to:
Warren A. Wilson, III
Address P.O. Box 1020
Palm Harbor, Florida 33563
My commission expires: 3-30-85

Ex. Δ

Rec 4.00
De
Int
75 86.00

PINELLAS COUNTY FLA.
INST # 90-315436

*** OFFICIAL RECORDS ***
BOOK 7433 PAGE 2250

State of Florida



Department of State

I certify from the records of this office that a limited partnership was organized under the laws of Texas, authorized to transact business in the State of Florida, filed on October 20, 1982, and an amendment was filed on September 20, 1990, changing its name from CROW-CHILDRESS-HARROD #2, LTD. to FTBA LIMITED.

The document number of this limited partnership is A13336.

I further certify that said limited partnership has paid all fees due this office through December 31, 1990, and its status is active.

61037453 SCC 11-25-90 16:09
RECORDING 1 \$
CHECK AMT. TENDERED

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this 25th
day of November, 1990.



Jim Smith

Jim Smith
Secretary of State

CR28022 (8-89)

KARLEEN F. DEBLAKER, CLERK
NOV 26, 1990 7:59PM

RETURN TO:
JOSEPH W. GAYNOR, ESQUIRE
ROBBINS, GAYNOR & BRONSTEIN, P.A.
POST OFFICE BOX 14034
ST. PETERSBURG, FLORIDA 33733