

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 00-4972-CV-UNA/TURNOFF

UNITED STATES OF AMERICA,

Plaintiff,

TRACT NO. 116-01
EAST EVERGLADES

vs.

400.00 ACRES OF LAND, MORE OR LESS,
IN THE COUNTY OF MIAMI-DADE, STATE
OF FLORIDA; and LAVENDER RIVER FLOWER
CORP., et al., and Unknown Others,Defendants.

REPORT AND RECOMMENDATION

THIS CAUSE is before the undersigned upon a Joint Motion for the Entry of Stipulated Judgment as to Just Compensation. [DE 28]. Upon review of the Motion, the court file, and being otherwise duly advised in the premises, the Court makes the following findings.

On December 28, 2000, Plaintiff filed a Complaint in condemnation pursuant to a declaration of taking against the Defendant property and deposited the sum of \$160,000.00, in the registry of the Court representing the amount of estimated just compensation for the taking of same. [DE 1, 6]. Upon deposit of said amount into the registry of the Court, title to the subject property vested in the United States of America by operation of law. 40 U.S.C. §3114(b) (2005). Plaintiff made an additional deposit in the amount of \$170,000.00, on September 11, 2008. [DE 29].

On Schedule "C" of the Complaint, Defendant Lavender River Flower Corporation, Trustee, appears as the purported owner of the subject property. [DE 1, Schedule "C"]. The following appear as parties "who may have or claim an interest in the land": (a) The Public Health Trust of Miami-Dade County, FL, by virtue of Judgment against Barbara Greenberg, recorded in O.R.B. 12734, Page 1279, in the public records of Miami-Dade County, FL; (b) Maria T. Mesa, Trustee,

by virtue of Judgment in favor of Leon Buckles against Stephen R. Sonson and Barbara Sonson, recorded in O.R.B. 12060, Page 2032, in the public records of Miami-Dade County, FL; (c) University of Miami Hospitals & Clinics, National Childrens Cardiac, by virtue of Judgment against Barbara Greenberg, recorded in O.R.B. 12926, Page 1864, in the public records of Miami-Dade County, FL; and (d) Tax Collector, by virtue of a possible lien for real property taxes. Id.

On October 7, 2008, Barbara Greenberg, f/k/a Barbara Sonson Greenberg, f/k/a Barbara J. Sonson, f/k/a B.J. Sonson, filed a Non-Identity Affidavit setting forth that she was not one and the same as the individual against whom the University of Miami Hospitals & Clinics National Childrens Cardiac and The Public Health Trust of Miami-Dade County, FL, held judgments. **[DE 30]**. Moreover, on April 9, 2001, the Tax Collector filed an Answer that no real property taxes were outstanding in connection with the subject property. **[DE 11]**.

Plaintiff filed the instant Motion seeking the entry of a Stipulated Judgment in the amount of \$330,000.00, on September 8, 2008. **[DE 28]**. The Court notes that Plaintiff takes no position as to either entitlement or distribution of the funds in question.

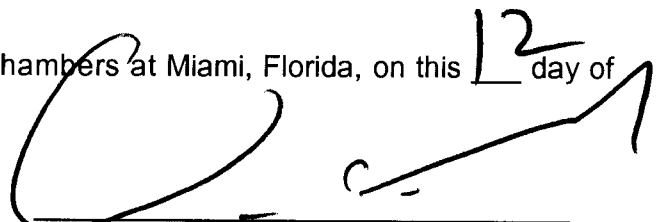
On December 9, 2008, this Court entered an Order giving any and all interested parties one final opportunity to file any opposition or response to the instant Motion. **[DE 31]**. The Order clearly provided that, if any of the Party Defendants failed to respond, the Court would presume they have no interest in the subject property. On December 10, 2008, Defendant Lavender River Flower Corporation, filed a response indicating that it was the fee owner of the subject property. **[DE 32]**. No other response or objection has been filed, and the time provided for in the Order has passed.

Consistent with the foregoing, the undersigned finds that Defendant Lavender River Flower Corporation, is the rightful owner of the subject property and that entry of the Stipulated Judgment is appropriate. Accordingly, it is hereby **RESPECTFULLY RECOMMENDED** that the Joint Motion **[DE 28]** be **GRANTED**.

Pursuant to Local Magistrate Rule 4(b), the parties have ten (10) days from service of this

Report and Recommendation to serve and file written objections, if any, with the Honorable Federico A. Moreno, Chief United States District Court Judge. Failure to file timely objections shall bar the parties from attacking on appeal the factual findings contained herein. Loconte v. Dugger, 847 F. 2d 745 (11th Cir. 1988); RTC v. Hallmark Builders, Inc., 996 F.2d 1144, 1149 (11th Cir. 1993).

RESPECTFULLY RECOMMENDED in Chambers at Miami, Florida, on this 12 day of
December 2008.



William C. Turnoff
United States Magistrate Judge

cc: Hon. Federico A. Moreno
Service List