

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 01-3062-CV-UNA/TURNOFF

UNITED STATES OF AMERICA,

Plaintiff,

TRACT NO. 253-08  
EAST EVERGLADES

vs.

40.00 ACRES OF LAND, MORE OR LESS,  
IN THE COUNTY OF MIAMI-DADE, STATE  
OF FLORIDA; and SUN-RAND LAND COMPANY,  
et al., and Unknown Others,Defendants.  

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**REPORT AND RECOMMENDATION**

**THIS CAUSE** is before the undersigned upon a Joint Motion for the Entry of Stipulated Judgment as to Just Compensation. [DE 23]. Upon review of the Motion, the court file, and being otherwise duly advised in the premises, the Court makes the following findings.

On July 13, 2001, Plaintiff filed a Complaint in condemnation pursuant to a declaration of taking against the Defendant property and deposited the sum of \$20,000.00, 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 \$13,000.00, on September 11, 2008. [DE 24].

On Schedule "C" of the Complaint, Defendant Sun-Rand Land Company, 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) Charles Shapiro, Trustee, by virtue of Land Trust Agreement-Deed, recorded in O.R.B. 5110, Page 266, in the public records of Miami-Dade County, Fl; and (b) Tax Collector, by virtue of a possible lien for real property taxes. Id.

On July 18, 2003, the Court entered an Order on Amended Motion for Withdrawal of Funds

authorizing payment of \$232.46, for outstanding real property taxes associated with the subject property. [DE 19]. There are no further delinquent taxes.

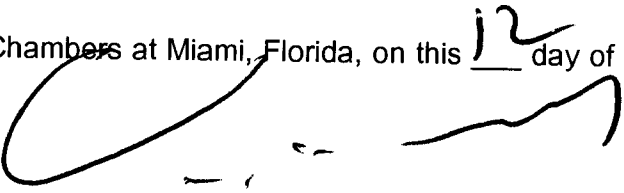
Plaintiff filed the instant Motion seeking the entry of a Stipulated Judgment in the amount of \$33,000.00, on September 8, 2008. [DE 23]. The Court notes that Plaintiff takes no position as to either entitlement or distribution of the funds in question.

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 25]. 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 Sun-Rand Land Co., filed a response indicating that it was the fee owner of the subject property. [DE 26]. 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 Sun-Rand Land Co., 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 23] 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 (11<sup>th</sup> Cir. 1988); RTC v. Hallmark Builders, Inc., 996 F.2d 1144, 1149 (11<sup>th</sup> 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