



**MONROE COUNTY BOARD OF COMMISSIONERS'
WORK SESSION AGENDA**

April 19, 2023

Nat U. Hill Meeting Room - 3rd Floor, Courthouse and Zoom Connection

1. Legal – Lee Baker

Review and final decision on proposed settlement of litigation in
Monroe County v Boathouse Apts, LLC



Monroe County Board of Commissioners Agenda Request Form

Date to be heard

Formal

Work session

Department

Title to appear on Agenda:

Vendor #

Executive Summary:

A settlement of litigation in Monroe Cty. v. Boathouse Apts., LLC, Cause No. 53C01-1702-PL-000257 (Monroe Cir. Ct.), is proposed, the terms and conditions of which are more fully set forth in the attached release and dismissal documents. In summary, Boathouse Apts., LLC will pay to the County a certain sum of money for violation of the occupancy requirements of the County's Building Code and Zoning Ordinance in exchange for a full release of the County's ordinance violation claims and dismissal of the case with prejudice. Approval of this proposed settlement by the Board of Commissioners and Plan Commission is required to make the terms of the settlement binding and enforceable.

Fund Name(s):

Fund Number(s):

Amount(s)

Presenter:

Speaker(s) for Zoom purposes:

Name(s)

Phone Number(s)

(the speaker phone numbers will be removed from the document prior to posting)

Attorney who reviewed:

Monroe County Board of Commissioners Agenda Request - Grant

REQUIRED

Federal Agency

Federal Program

CFDA#

Federal Award Number and Year (or other ID)

Pass Through Entity:

Request completed by:

This document is to be submitted no later than the Friday at noon prior to the requested meeting date.

Each agenda request and all necessary documents to the Auditor's Office (Anita Freeman) at: afreeman@co.monroe.in.us AND to the Commissioner's Office e-mail: Commissionersoffice@co.monroe.in.us



William J. Beggs
Partner
Direct: 812-245-6015
wjbeggs@lawbr.com

April 13, 2023

Lee Baker
Monroe County Attorneys' Office
Courthouse, Room 220
100 W. Kirkwood Avenue
Bloomington, IN 47404

Via email to:
lfbaker@co.monroe.in.us

Re: Monroe County v. Boathouse Apartments, LLC

Dear Lee:

Attached hereto please find a Release in the above-captioned matter. The enclosed reflects our clients' agreement to resolve this case by way of Boathouse paying the sum of \$24,000.00 in exchange for a release of all claims which were or could have been alleged in the Litigation and a dismissal of the pending lawsuit with prejudice. We recognize that this settlement is contingent upon approval by the Monroe County Commissioners and the Monroe County Plan Commission, representatives of which have expressly told you that they expect this settlement to be approved.

Also attached is the proposed Stipulation of Dismissal and Order of Dismissal for your review and approval.

At your earliest convenience, please let me know the scheduled meeting dates for the Monroe County Commissioners and Monroe County Plan Commission when this item will be considered and approved.

Sincerely yours,

A handwritten signature in blue ink that reads 'William J. Beggs'.

William J. Beggs

WJB/khj
Enclosures

BLOOMINGTON, IN | lawbr.com

RELEASE

This Release is made by Monroe County, Indiana and Monroe County Plan Commission (collectively, "Monroe County") relating to all claims against Boathouse Apartments, LLC, an Indiana limited liability company ("Boathouse") as further set forth herein.

RECITALS:

- A. In 2015 and 2016, Boathouse caused to be constructed certain apartments in Bloomington, Monroe County, Indiana commonly known as Cape Dutch Villas.
- B. On February 2, 2017, Monroe County filed suit against Boathouse alleging violations of the Monroe County Zoning Ordinance and the Monroe County Building Code and sought to impose a fine or fines against Boathouse (the "Litigation").
- C. Boathouse has denied the allegations raised in the Litigation.
- D. The parties now wish to settle and resolve their disputes and disagreements and reduce their settlement and resolution to this writing.

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, the following is agreed:

1. **Payment to Monroe County.** Boathouse shall pay to Monroe County the sum of Twenty-Four Thousand Dollars (\$24,000.00) in full and final settlement of all claims for alleged violations of the Monroe County Building Code, the Monroe County Zoning Ordinance, and for any other claim that was, or could have been, raised and alleged by Monroe County within the Litigation. Such sum represents a complete compromise by Boathouse of all claims asserted against it by Monroe County.
2. **Dismissal of the Litigation.** Upon receipt of the payment described herein, Monroe County shall cause the appropriate pleadings to be filed within the Litigation to dismiss the Litigation in its entirety, such dismissal being made with prejudice.
3. **Release by Monroe County.** Upon receipt of the payment described in this Release, Monroe County shall, and hereby does, completely release and forever discharge Boathouse and its members, employees, agents, contractors, subcontractors, and successors in interest from any and all past, present or future claims, demands, obligations, actions, causes of action, rights, damages, costs, expenses, fines, fees, attorney fees, and compensation of any nature whatsoever, which Monroe County now has, or may hereafter accrue or otherwise be acquired, on account of, or in any way arising out of the acts, omissions, incidents and claims raised and alleged in the Litigation. Monroe County's release shall include, without limitation, any and all known or unknown claims and allegations which have resulted or may result from the alleged acts or omissions of Boathouse in connection with the incidents giving rise to the Litigation, including

those allegations which were, or could have been, raised and alleged by Monroe County in the Litigation.

4. **Complete Compromise.** Monroe County agrees that it shall accept payment of the sum specified herein as a complete compromise of matters involving disputed issues of law and fact in the Litigation. It is understood and agreed that this settlement is a compromise of disputed claims, and the payment described herein is not to be construed as an admission of liability on the part of Boathouse, by whom liability is expressly denied.

5. **Entire Agreement and Successors in Interest.** This Release contains the entire agreement by and among Monroe County and Boathouse with regard to the matters set forth herein. This Release shall be binding upon and inure to the benefit of the parties and their successors in interest.

6. **Amendments.** This Release may not be modified or amended except by a written instrument executed by all parties hereto.

7. **Capacity to Execute.** By their signatures below, the undersigned represent and affirm that they are duly authorized on behalf of the party for whom they are executing this Release, and that they have the authority and capacity to bind their respective party to all of the terms and conditions set forth herein.

8. **Multiple Counterparts.** This Release may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same agreement.

The above and foregoing is agreed as of the _____ day of April, 2023.

MONROE COUNTY, INDIANA

MONROE COUNTY PLAN
COMMISSION

By: _____

By: _____

Its: _____

Its: _____

STATE OF INDIANA) IN THE MONROE CIRCUIT COURT
)
COUNTY OF MONROE) CAUSE NO. 53C01-1702-PL-000257

MONROE COUNTY, INDIANA and
MONROE COUNTY PLAN COMMISSION,
Plaintiffs,

vs.

BOATHOUSE APARTMENTS, LLC,
Defendant.

STIPULATION FOR DISMISSAL

Come now the parties, by their respective counsel, and hereby stipulate to the dismissal of the Plaintiffs' Complaint against the Defendant. The dismissal should be with prejudice.

WHEREFORE, the parties respectfully request the Court to dismiss this cause, with prejudice, and for all other just and proper relief in the premises.

Respectfully submitted,

/s/
David B. Schilling
Lee F. Baker
Monroe County Attorneys' Office
Courthouse, Room 220
100 W. Kirkwood Avenue
Bloomington, IN 47404
Attorneys for Plaintiffs

/s/ William J. Beggs
William J. Beggs, #16644-49
BUNGER & ROBERTSON
211 S. College Avenue
Post Office Box 910
Bloomington, IN 47402-0910
Attorney for Defendant

STATE OF INDIANA)
)
COUNTY OF MONROE) IN THE MONROE CIRCUIT COURT
) CAUSE NO. 53C01-1702-PL-000257

MONROE COUNTY, INDIANA and
MONROE COUNTY PLAN COMMISSION,
 Plaintiffs,

vs.

BOATHOUSE APARTMENTS, LLC,
 Defendant.

ORDER OF DISMISSAL WITH PREJUDICE

The Court, having reviewed the Stipulation for Dismissal filed by the parties and being duly advised, now GRANTS same and ORDERS this matter dismissed, with prejudice.

SO ORDERED _____.

Hon. Geoffrey J. Bradley, Judge
Monroe Circuit Court 1

Distribution:

David B. Schilling, Lee F. Baker, Monroe County Attorneys' Office, Courthouse, Room 220, 100 W. Kirkwood Avenue, Bloomington, IN 47404

William J. Beggs, BUNGER & ROBERTSON, 211 S. College Avenue, Post Office Box 910, Bloomington, IN 47402-0910