

CIRCUIT COURT

IN THE CIRCUIT COURT OF THE
NINETEENTH JUDICIAL CIRCUIT
IN AND FOR ST. LUCIE COUNTY,
FLORIDA.

THE CITY OF PORT ST. LUCIE,
a Florida municipal corporation,

CASE NO.: 562008CA007714

Petitioner,

City Parcel No. 5

vs.

DONNASTU, INC., a Florida corporation, et al.,

Defendants.

2008 NOV 24 PM 3:31
CIRCUIT COURT

**STIPULATED ORDER OF TAKING AND STIPULATED FINAL JUDGMENT
AS TO CITY PARCEL NO. 5**

THIS CAUSE came on to be heard pursuant to the Declaration of Taking and Notice of Petition Date as to City Parcel No. 5, and the parties hereto having stipulated and agreed, and all parties having been given the opportunity to be heard and to introduce testimony as to the Declaration of Taking, the jurisdiction of the Court, the sufficiency of the pleadings, the amount to be deposited for the property sought to be appropriated, and whether the Petitioner, CITY OF PORT ST. LUCIE, a Florida municipal corporation, is properly exercising the authority delegated to it in taking the subject property, it is now, therefore:

ORDERED and ADJUDGED that:

1. The Court has jurisdiction of these proceedings.
2. The Petitioner is properly exercising the authority delegated to it in taking the subject property referred to as City Parcel No. 5.
3. The pleadings before the Court are sufficient.
4. An accurate description of City Parcel No. 5 constituting the property taken or involved in this Stipulated Order of Taking and Stipulated Final Judgment is as follows:

Lot 11, Block 2211, PORT ST. LUCIE SECTION THIRTY THREE,
according to the plat thereof, as recorded in Plat Book 15, pages 1,
1A through 1V, of the Public Records of St. Lucie County, Florida.

CA

Parcel Identification Number: 3420-660-0849-000/0

5. The Declaration of Taking and estimate of full compensation for the property and interests sought to be appropriated has been considered, and the Court finds and determines that the sum of FORTY-FIVE THOUSAND NINE HUNDRED THIRTY-ONE DOLLARS AND FIFTY-SEVEN CENTS (\$45,931.57) will fully secure and fully compensate Defendant, DONNASTU, INC. for City Parcel No. 5. This sum is not subject to apportionment except for payment of the 2008 taxes and the water and sewer assessment to be paid by Petitioner, CITY OF PORT ST. LUCIE, on behalf of Defendant, DONNASTU, INC., pursuant to paragraph 14. The said sum shall be allocated as follows:

CITY PARCEL NO. 5 (fee taking)	<u>\$45,931.57</u>
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6. The Petitioner shall pay the sum of FORTY-FIVE THOUSAND NINE HUNDRED THIRTY-ONE DOLLARS AND FIFTY-SEVEN CENTS (\$45,931.57) plus FOUR THOUSAND FIVE HUNDRED NINETY-SIX DOLLARS AND NO CENTS (\$4,596.00) as attorney's fees and costs as delineated in Paragraph "12" below. Upon the making of such payment, and the Certificate of Payment being filed with the Clerk of the Circuit Court that said sum has been paid, fee simple title to City Parcel No. 5, shall be vested in the Petitioner, and the said property and interests to said property shall be deemed condemned and taken for the use of the Petitioner, and the right to full compensation for the same shall be vested in the persons lawfully entitled thereunto.

7. Petitioner, CITY OF PORT ST. LUCIE, shall be entitled to possession of City Parcel No. 5 on the date of payment.

8. If the Petitioner shall fail to pay the sum required by Paragraph "6" above within the time therein provided, this Order shall be void and of no further force and effect.

9. Petitioner shall furnish a copy of this Order to all parties who have appeared respecting the above-described parcel.

10. That pursuant to this Stipulated Order of Taking and Stipulated Final Judgment as to

City Parcel No. 5 entered in between the Petitioner, CITY OF PORT ST. LUCIE, and the Defendant-Owner, DONNASTU INC., a Florida corporation, the Defendant-Owner hereby waives trial by jury and any further proceedings concerning his interest in full compensation for the property taken, inclusive of any and all damages, attorney's fees, expenses and taxable costs.

11. The amount of FORTY-FIVE THOUSAND NINE HUNDRED THIRTY-ONE DOLLARS AND FIFTY-SEVEN CENTS (\$45,931.57), represents full and complete payment for the taking of City Parcel No. 5, and for all damages of any kind or nature for which Petitioner might otherwise be liable in this proceeding and in settlement of all claims and counterclaims arising from the taking of City Parcel No. 5, if any. Said parcel is necessary for the for the construction of Phase 1 of the Revised Becker Road Widening Project from Earth Lane to Tacoma Street (the "Project") for a stormwater retention area and/or drainage facilities, the same being a public purpose.

12. Within thirty (30) days of receipt of a conformed copy of this Stipulated Order of Taking and Stipulated Final Judgment, Petitioner, CITY OF PORT ST. LUCIE, shall without further order of this Court, make payment directly to the Trust Account of GAYLORD MERLIN LUDOVICI DIAZ & BAIN, Attn: Ellen J. Neil, Esq., Post Office Drawer 569, Boca Grande, FL 33921, as attorney of record for the Defendant-Owner DONNASTU INC., a Florida corporation, the sum of FORTY-EIGHT THOUSAND SEVEN HUNDRED SEVENTY-FOUR DOLLARS AND FORTY-NINE CENTS (\$48,774.49). Said sum represents full compensation for the taking of City Parcel No. 5, subtracting out the amount due for the payment of 2008 taxes if paid in November 2008 and one-half of the remaining payoff balance for the water and sewer assessment (the other one-half of said remaining balance is to be paid by Petitioner), and is inclusive of any and all damages and statutory interest, if applicable, and attorney's fees and costs, and shall be disbursed as follows:

- a. To GAYLORD MERLIN LUDOVICI DIAZ & BAIN, Trust Account, as attorneys of record for DONNASTU INC., a Florida corporation (Defendant-Owner as to City Parcel No. 5)\$44,178.49
- b. To GAYLORD MERLIN LUDOVICI DIAZ & BAIN, Trust Account, as attorneys of record for DONNASTU INC., a Florida corporation

(Defendant-Owner as to City Parcel No. 5, as attorney's fees for the representation of said Defendant-Owner)\$3,696.00

c. To GAYLORD MERLIN LUDOVICI DIAZ & BAIN, Trust Account, as attorneys of record for DONNASTU INC., a Florida corporation (Defendant-Owner as to City Parcel No. 5, as any and all costs, including the expert appraisal services by Calhoun, Collister, & Parham, Inc., for the representation of said Defendant-Owner)\$900.00

13. With regard to Defendant FLORIDA POWER & LIGHT COMPANY ("FPL"), a Florida corporation, Petitioner has entered into an Agreed Order of Taking and Final Judgment as to Defendant Florida Power & Light Company's Easement Interest dated November 18, 2008 to this condemnation action based on the fact that the subject taking will not affect the easement interest held by FPL.


14. With regard to Defendant ST. LUCIE COUNTY TAX COLLECTOR, Petitioner, on behalf of the Defendant-Owner, DONNASTU INC., a Florida corporation, shall make payment directly the Tax Collector of St. Lucie County, Florida, the amount due for the payment of 2008 taxes if paid in November 2008, EIGHT HUNDRED TWENTY-ONE DOLLARS AND FIFTY-ONE CENTS (\$821.51), plus the remaining balance for the payoff of the water and sewer assessment, ONE THOUSAND EIGHT HUNDRED SIXTY-THREE DOLLARS AND FIFTEEN CENTS (\$1,863.15). Petitioner, CITY OF PORT ST. LUCIE, shall furnish proof of payment of taxes and assessment to counsel for Defendant, DONNASTU, INC.

15. Upon receipt of said sum of FORTY-EIGHT THOUSAND SEVEN HUNDRED SEVENTY-FOUR DOLLARS AND FORTY-NINE CENTS (\$48,774.49), Ellen J. Neil, Esq., of GAYLORD MERLIN LUDOVICI DIAZ & BAIN, shall distribute said sum in accordance with the provisions of this Stipulated Order of Taking and Stipulated Final Judgment.

16. This Court retains jurisdiction of this cause to enforce the terms and conditions of this Stipulated Order of Taking and Stipulated Final Judgment.

DONE and ORDERED in Chambers at Ft. Pierce, St. Lucie County, Florida, this 24 day

of nov, 2008.



HONORABLE BEN L. BRYAN, JR.
Circuit Court Judge

Conformed copies furnished to:
Azlina Goldstein, Esq.
Ellen J. Neil, Esq.
Those persons and/or parties listed on the attached service list

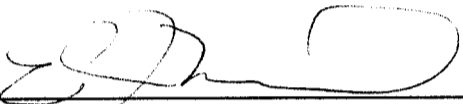
**JOINT MOTION FOR ENTRY OF A STIPULATED ORDER OF TAKING
AND STIPULATED FINAL JUDGMENT AS TO CITY PARCEL NO. 5**

Petitioner, CITY OF PORT ST. LUCIE, a Florida municipal corporation, and Defendant-Owner, DONNASTU INC., a Florida corporation, by and through their respective, undersigned counsel hereby jointly move the Court for entry of the foregoing Stipulated Order of Taking and Stipulated Final Judgment as to City Parcel No. 5 set forth above.

AZLINA GOLDSTEIN, ESQ.
Attorney for Petitioner
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Azlina Goldstein
AZLINA GOLDSTEIN, ESQ.
Florida Bar No.: 0026106
Date: *November 21, 2008*


ELLEN J. NEIL, ESQ.
Florida Bar No.: 339709
Date: *November 19, 2008*

SERVICE LIST

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Florida Power & Light Company, a Florida corporation
c/o Brian R. Brattebo, Esq.
9250 West Flagler Street
Miami, FL 33174

Bob Davis, Tax Collector
c/o Doris G. Ferguson, General Counsel
St. Lucie County Tax Collector
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