FAU
BOARD OF TRUSTEES
Florida Atlantic University

Item: VI. SP: A-4

Wednesday, June 25, 2008

SUBJECT: Commercial Marina Lease at Florida Atlantic University's SeaTech Property

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PROPOSED BOARD ACTION

Approval of terms in concept of agreement between Florida Atlantic University and the City of Dania Beach ("Dania") for Dania to acquire FAU's lease interest in the commercial marina located on FAU's SeaTech Property. Delegate to the University President the authority to execute an agreement modifying FAU's interest in the SeaTech Property.

BACKGROUND INFORMATION

In 1996, the Board of Regents, acting on behalf of FAU, leased the SeaTech property from Dania for a period of 50 years, until 2046. An amendment to this agreement was signed giving FAU the option to extend the lease for an additional 49 years (to 2095) at a mutually agreed upon rent to be determined as of 2046. The rent started at $27,000 annually, adjusted every 5 years according to the CPI. The rent is presently $34,713. As part of that agreement with Dania, FAU agreed to license the existing commercial marina (comprised of 92 boat slips and adjacent service area) to the Aragon Group, Inc. The marina license to Aragon was from 1996 until January 1, 2013, at which time the marina reverts to FAU. For the term of the license to Aragon, FAU was to receive 20% of the net profit from the marina facility. From 1996 to approximately 2006, this has resulted in $17,000 to $19,000 being paid annually to FAU. Effective February 14, 2006, the City of Dania Beach took over the license from the Aragon Group, Inc., accepting all rights and duties Aragon had to FAU.

The marina facility requires extensive and immediate repairs and renovation if it is to continue to operate. An appraisal placed the renovation costs as high as $5,135,000. Dania would like to repair and renovate the marina but will not do so if its right to run the marina ends on January 1, 2013. Therefore, Dania has asked FAU to transfer FAU's interest in the marina to Dania for an agreed upon amount.

Dania and FAU jointly hired and equally paid an appraiser (Urban Realty Solutions) to determine the value of the marina. Based upon the appraiser's review and an evaluation prepared by Cutcher and Associates, Coastal Engineers, up to $5,135,000 will be required to renovate the marina. Assuming FAU had a third-party investor to put that amount into the marina and that FAU leased the marina for 25 years to that investor, FAU could reasonably expect 8% of the gross revenues yearly as its return. Based on those assumptions, Urban Realty Solutions put the present value to FAU of the entire income stream at approximately $780,000.

The City of Dania Beach and FAU are presently negotiating the terms of an agreement to transfer FAU's interest in the marina to Dania. Part of this agreement will relieve FAU of its lease payment obligation to Dania under the existing ground lease for the entire SeaTech Property which runs through 2046. It is anticipated that the basic financial terms will include a net payment (value of marina less value of lease payments) to FAU. Other issues, such as FAU access, will be negotiated in the agreement. Dania has not yet determined whether it will pay this money in an upfront lump sum or in equal payments.

It is being requested that the Board of Trustees approve of this agreement in concept, subject to final terms being reduced to writing and being substantially in conformity with the terms stated herein, and that the authority to enter into the agreement be delegated to the University President.

IMPLEMENTATION PLAN/DATE

The proposed agreement in concept was approved unanimously by the FAU Board of Trustees Strategic Planning Committee on June 11, 2008. The City of Dania Beach will be presented with the proposal at its next regular Commission meeting, June 24, 2008.

FISCAL IMPLICATIONS

FAU will receive value for its leasehold interest in the commercial marina at SeaTech. As of now, the prohibitively high cost of repairs required for the continued operation of the marina would mean that FAU would not see any value from the marina lease. By agreeing to Dania's request, FAU gives Dania a reason to invest in the repair and renovation of the marina, thereby allowing the marina to continue operation, and providing a value to both Dania and FAU. FAU will also be relieved of its financial obligation to Dania under the terms of the current ground lease.

Supporting Documentation: Appraisal report executive summary by Urban Realty Solutions
Certificate of Valuation

Presented by: Dr. Kenneth Jessell, Vice President for Finance Phone: 561-297-3266
Mr. Jack Ludin, Deputy General Counsel Phone: 561-297-3511

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H. LINWOOD GILBERT, JR., MAI
STATE CERTIFIED GENERAL APPRAISER RZ940

November 29, 2007

Thomas J. Ansbro, Esq.
City of Dania Beach
100 West Dania Beach Blvd.
Dania Beach, Florida 33004

Jack B. Ludin, Esq.
Florida Atlantic University
777 Glades Road
Boca Raton, FL 33431

Re: FAU Leasehold Interest
Dania Beach Marina
101 North Beach Road
Dania Beach, Broward County, Florida

Gentlemen:

As requested, we have conducted a detailed investigation, analysis and appraisal of the market value of the leasehold position of the Board of Regents of the State University System of Florida, Inc., (the local entity hereinafter referred to as Florida Atlantic University or FAU) lessee, in the above referenced marina property.

As I understand, FAU is in possession of a leasehold interest in the marina and adjacent properties from the City of Dania Beach (the City), lessor, by virtue of a lease/license agreement dated May 31, 1996, which lease expires May 30, 2046 but is renewable for an additional term of 49 years. However, the City of Dania Beach is in possession of the marina by virtue of succeeding to the license position of The Aragon Group, Inc., (Aragon) which grants possession of the marina to the City until December 31, 2012. Therefore, FAU will have possession of the marina from January 1, 2013 through expiration of the lease and renewal term in 2095. Each party is entitled to operate the marina and to the rents and receipts of the marina during their respective periods of possession.

The city would like to acquire the FAU interest at this time, and both parties have requested an impartial valuation of the FAU leasehold position in connection with the request of the City to acquire full rights to the marina.

Valuation is based on the present worth of anticipated future monetary benefits. In order to estimate value of the FAU position we examine the income that could be derived from the site during its term of possession. As with many publicly owned marina facilities, and particularly one that must be replaced, we have assumed the marina site would be ground leased to a third party who would build the new marina. Although FAU may obtain funds to construct a new marina and enjoy future profits, such profits relate to speculative future investments and entrepreneurial effort, and are beyond those earned by the site itself. The city has possession and makes payments to Aragon through 2012. During this period FAU receives 20% of the net rental income.

The property consists of a submerged land parcel of 2.87 acres plus an upland parcel of 1.67 acres for parking. The marina consists of a fixed wooden dock system providing forty-two wet slips, as

well as a floating dock system providing fifty wet slips, or 92 slips total. Although the city is nearing completion of a new restroom and office facility, the marina improvements remain in poor condition. The coastal engineering firm of Cutcher and Associates, Inc., was retained in June, 2007 to prepare an inspection of the marina, and concluded that the condition was poor and all components should be replaced. Based on our inspection, we concur with this observation.

There does not appear to be a requirement on the part of the City to maintain the marina, although FAU does have this responsibility. The City does not anticipate making significant capital expenditures for either repairs or replacement unless and until it acquires full possession.

Our analysis assumes complete replacement of the existing marina with a new, floating concrete dock marina designed to accommodate larger vessels, which represents highest and best use.

Thus, it is assumed that, upon achieving possession of the premises in 2013, FAU would enter into a 25 year lease of the submerged land with an investor who will expend the approximate $5.135 million (in 2013 dollars) necessary to replace the marina. For the period from 2008 until 2013, FAU receives 20% of net income or an estimated $17,000 to $19,000 per year, there then follows a two year period with little or no revenue, (assuming the new tenant absorbs the negative cash flows) as the new marina is being constructed and leased. The new marina should be generating gross revenues of approximately $1.0 million per year by the third year, increasing thereafter at inflation. Net marina income is projected at approximately $700,000 by the third year following completion, adequate to pay ground rental and to provide the investor with a return on and of its investment (loan and equity) over an approximate 25 year period, based on the expected useful life of a new marina and typical lease term.

Accordingly, beginning in about 2015, FAU could expect to receive 8.0% of gross revenues, or approximately $72,000, increasing to approximately $85,000 in 2016. The first few years of the FAU term are summarized below.

YEAR	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
REVENUES	$86,469	$88,530	$90,625	$92,754	$94,915	$ -	$549,625	$910,178	$1,059,789	$1,096,882	$1,135,272	$1,175,007
PERCENTAGE	20.0%	20.0%	20.0%	20.0%	20.0%	0.0%	0.0%	8.0%	8.0%	8.0%	8.0%	8.0%
GROUND RENT	$17,294	$17,706	$18,125	$18,551	$18,983	$ -	$ -	$ 72,814	$ 84,783	$ 87,751	$ 90,822	$ 94,001

* NOTE: 20 PERCENT OF NET RENT UNTIL 2013, THEN 8 PERCENT OF GROSS RENT

Of course, actual development costs or interest rates may be higher or lower than estimated. From the developer's leasehold perspective, there will be no eventual sale of the marina at a profit, only an expiration of the lease, so all investment must be recaptured and all profit must be received during the term of the lease. The present value of the entire income stream accruing to the FAU position during the term of the lease and renewal, discounted at a market yield rate of 9.5%, is approximately $780,000.

Summarizing, in our opinion, if FAU were a typical passive investor, it would place the submerged land on the market for lease, a third party would construct the marina, and FAU could reasonably expect to receive the above ground rental. Due to the poor condition of the marina, continued operation as-is is not feasible beyond a few years, and that only with repairs.

All estimates herein should be for planning purposes only. Final negotiations with a developer should follow more complete engineering and cost estimation. Extraordinary assumptions and hypothetical conditions of this appraisal include that a redesign of the marina with larger slips can be permitted, that rearrangement of the subject marina configuration may be accomplished without payment of rent to the state, and that construction costs will be reasonably similar to the estimates herein.

The above summary should not be construed as a separate appraisal report, but merely summarizes the findings of our analysis, which are described in more detail in the attached appraisal report.

Should you have any questions or comments, or if any of above assumptions require revision, please do not hesitate to call. The opportunity to be of service is very much appreciated.

Very truly yours,

H. Linwood Gilbert, Jr., MAI
President
St. Cert. Gen. REA RZ940

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CERTIFICATE OF VALUATION

This is to certify that, upon request for valuation by Thomas J. Ansbro, Esq., and Jack B. Ludin, Esq., we have personally inspected, collected and analyzed various data, and appraised the leasehold position of Florida Atlantic University in the Dania Beach Marina, 101 North Beach Road, Dania Beach, Broward County, Florida. The property is more fully described in the attached report.

We certify that, to the best of our knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are our personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- We have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- We have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- Our engagement in this assignment was not contingent upon developing or reporting predetermined results.
- Our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute, which include the Uniform Standards of Professional Appraisal Practice. This certificate is also a certification under Florida Real Estate License Law Chapter 475.
- We have made a personal inspection of the property that is the subject of this report. Also, we made an inspection of the selected comparable properties.

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- No one provided significant real property appraisal assistance to the person signing this certification.

- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives

- The Appraisal Institute requires a mandatory continuing education program for designated members. As of the date of this report, H. Linwood Gilbert, Jr., MAI, has completed the continuing education program of the Appraisal Institute.

- The undersigned appraisers, based on education, work experience and the previous appraisal of properties similar to the subject, are competent and qualified to appraise the property.

This certificate is in accordance with the Uniform Standards of Professional Appraisal Practice Standard Rule 2-3 and with the Appraisal Institute's Supplemental Standards of Professional Practice. It is also a certification under Florida Real Estate Appraisal Board of the Division of Real Estate of the Department of Business and Professional Regulation.

The reader should review the Assumptions and Limiting Conditions, to which this analysis is subject, included at the end of the report.

In our opinion, the leasehold position Florida Atlantic University in the subject marina property, being for a period extending through March 2046, with option to extend through 2095, in a typical market situation, could expect to receive ground rental of approximately $17,000 to $19,000 per year until 2013, no income for approximately two years, and thereafter 8.0% of gross annual rental revenues of a marina constructed on the site.

Assuming an investor may be found to lease the basin and construct a new marina, the projections equate to annual rental beginning at $72,800 in 2015, shortly after the marina is completed, increasing thereafter through 2095, which rental revenues have a present value, as of the date of appraisal, November 15, 2007, of approximately $780,000.

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EXECUTIVE SUMMARY

Property Identification	This appraisal is of the Dania Beach Marina, specifically that portion of the marina located within the submerged land site under ground lease from the City of Dania Beach to FAU. Dania Beach Marina is a passive, wet slip marina offering 42 fixed pier wetslips and 50 floating wetslips, or 92 total slips. The marina is located just south of the Dania Cutoff Canal and Port Everglades in the City of Dania Beach, Broward County, Florida.
Purpose of Appraisal	Estimate market value of the fee simple estate of the subject property, to assist in the negotiation of a price for the leasehold position based on the existing ground lease on the property.
Date of Appraisal/Inspection	November 15, 2007
Date of Report	November 29, 2007
Intended User	The City of Dania Beach and Florida Atlantic University
Intended Use	Assisting the negotiation of acquisition by the City of Dania Beach of the leasehold interest of Florida Atlantic University in the referenced marina.
Zoning	OS Open Space
Property Assessment	$ 1,561,050 (2007)
Millage Rate	20.6512 mils (2007)
Real Estate Taxes	Exempt
Highest and Best Use	As if vacant, highest and best use is for construction of a wet slip marina. As improved, subject improvements are in poor condition, functionally obsolete and near the end of their economic life.

Site Data

The subject consists of a parcel of submerged land measuring 165 feet by 758.6 feet, or approximately 2.87 acres, located within a basin just off the Intracoastal Waterway in Dania Beach, Broward County, Florida. The basin is encompassed to the south and east by a concrete sheet pile seawall in fair condition. Parking is provided by an adjacent upland parcel of approximately 1.67 acres. The Dania Beach campus of Florida Atlantic University is located at the south end of the basin, and the public beach is located east across the parking lot from the marina. The marina presently offers two docking systems which provide a total of ninety-two leaseable wet slips. It is an extraordinary assumption of this analysis that the docks may be replaced in a different configuration which would provide for an approximate equal number of larger slips as required by the market.

Improvement Data

The subject submerged land is improved with two connected docking systems. The main pier is of fixed wooden construction and extends from the east seawall toward the south of the basin. This older pier system provides forty-two wet slips accommodating boats in the range of forty-five feet overall. The piers appear to be about twenty five years of age, perhaps older, and many components are in poor condition. At least minimal repairs are necessary to continue safe operation, including replacement of decking and a number of stringers, as well as upgrades to the electrical and potable water systems.

Connected to the north of the fixed system is a floating dock system, consisting of wood decking on metal frames supported by plastic floats. Apparently intended for use as temporary dockage, the system will accommodate boats only up to about twenty eight feet, with an average actual boat length of about 25.5 feet. This size boat is more often found in high and dry marinas, and the floating docks experience turnover and vacancies in the range of 25%. Condition is fair to poor, notably including an off center and leaning access ramp. The entire docking system exhibits significant deferred maintenance, including items which would be considered life safety issues, and immediate repairs are recommended.

The engineering firm of Cutcher and Associates, Inc., recommends replacement, and we concur, although it is possible to extend the useful life of the improvements by making significant repairs and renovations. This would result in the increase in rental rates for the fixed wooden docks, but it is unlikely that revenues would be significantly increased for the floating docks due to the small size and lack of utilities. Further, the only access to the floating docks is across the wooden docks. which appears to represent a life safety issue in the event of fire.

The seawall surrounding the basin exhibits spalling and requires repairs, as detailed in the Cutcher and Associates, Inc., report, which suggests replacement.

Flood Plain Data

It appears the property is located in Flood Zone "VE", a flood prone zone, based on the Flood Insurance Rate Map, Community Panel No. 12011C0309-F, dated August 18, 1992.

Environmental Conditions

The subject site apparently contains no underground fuel storage tanks. No adverse environmental conditions were noted, but this appraisal is subject to receipt of a satisfactory environmental audit and engineer's report that no adverse factors exist.

Market Value Estimates

Cost Approach	N/A
Sales Comparison Approach	N/A
Income Capitalization Approach	$780,000
Final Value Estimate	**$780,000**


N Ocean Dr
Cambridge St
Image NASA
© 2007 Navteq
Google
Pointer 26°03'20.60" N 80°06'48.09" W
Streaming 100%
Eye alt 2807 ft

