

Memo

To: Honorable Mayor & Town Commissioners
From: Thomas J. Baird, Town Attorney
Date: September 23, 2016
Subject: RG Towers, LLC v. Town of Lake Park
Cc: John D'Agostino, Town Manager
Nadia DiTommaso, Community Development Director

The Town was recently served with a Summons and Complaint for breach of contract by RG Towers, LLC (RGT). The Complaint alleges that pursuant to its Lease with RGT, the Town warranted that the property at the Marina could be used for the construction of a telecommunications tower. RGT further alleges that it relied upon this warranty, but that the Town denied its site plan application which would have enabled the tower to be constructed. RGT claims that the Town's denial of the site plan breached a warranty in the Lease that a tower could be constructed on the Town's property in accordance with the Town's laws. Finally, RGT alleges that as a result of the breach it has been damaged. RGT seeks to recover its damages, costs and attorney fees.

The Complaint was forwarded to the Town's insurance carrier for a defense; however, the insurance company advised the Town that the breach of contract action does not fall within any of the coverage provisions of the policy it issued to the Town and therefore it will not be defending the Town. Consequently, this is to advise you that my law firm will be defending this claim. Upon receipt of the insurance carrier's notice that it has declined coverage, I filed a Motion to Enlarge the Time to file an Answer or other appropriate response to the Complaint. The Circuit Court has granted this motion and the Town's responsive pleading to the Complaint is due on October 11, 2016. We are in the process of evaluating how or whether this Complaint should be addressed given the appeal RGT filed of the denial of its site plan application.

Should you have any questions regarding this Complaint, please do not email me; rather please call.