
IN THE MATTER OF THE FORECLOSURE OF
TAX LIENS PURSUANT TO § 75.521, WISCONSIN
STATUTES, BY THE CITY OF MILWAUKEE,
A MUNICIPAL CORPORATION,

Case No. 05-CV-002643
Code No. 30405

LIST OF TAX LIENS FOR 2005, NO. 01
Parcel No. 23

**SETTLEMENT STIPULATION AND ORDER REGARDING PARCEL NO. 23
6143 N. 60th STREET**

Plaintiff, City of Milwaukee (“City”), by its attorney, Grant F. Langley, City Attorney, by Genevieve O’Sullivan Crowley, Assistant City Attorney, and defendant, Molecular Biology Resources, Inc., (“MB”), by its attorney, Randall D. Crocker of von Briesen & Roper, S.C., hereby stipulate and agree as follows:

1. **Dismissal of In Rem Foreclosure Against Parcel 23.** Parcel No. 23, being 6143 N. 60th Street, Milwaukee, Tax Key Number 155-0404-000-0 (the “Property”) shall be dismissed from this litigation.

2. **Payment of 2002-2004 Tax Roll and Other Amounts.** MB shall pay, within 2 business days of the Court’s signing of this document:

- a. **\$434,000** by cashier’s check or by wire instructions furnished by City to satisfy in full delinquent and outstanding 2002-2004 tax roll amounts, including real-property taxes, special taxes, special charges, and/or special assessments for the years 2002, 2003, and 2004, with the May, 2005 payoff amount otherwise being \$671,760.59;
- b. **\$38,822.48** by cashier’s check or by wire instructions furnished by City to be applied toward outstanding sewer and water charges for account numbers 004-0109.300 and 004-0110.300 (April 28, 2005 balance is \$36,822.48);

- c. Any other amount needed to pay in full amounts outstanding for sewer and water accounts 004-0109.300 and 004-0110.300 as of the date of MB's payment of same.
- d. **\$55** to the City of Milwaukee, payable at the Department of Neighborhood Services, 841 N. Broadway, Room 105 to cover a special-privilege-inspection fee that is currently due and owing.

3. **Possible Creditor Rights.** MB, and by joining in the execution of this document, Park Bank, N.A. ("Bank"), each specifically and forever waives the right to challenge any payment to City by MB hereunder, whether under preference or fraudulent conveyance theories, or in the context of a bankruptcy or receivership action, or a debtor or creditor protection action. In the event MB or any third party brings such an action or proceeding, and a court of competent jurisdiction declares any payment (or portion thereof) made by MB to City hereunder as a void or voidable payment and orders City return of the monies paid, then Bank, MB, and City agree that, in such event, City shall retain full Wis. Stat. Ch. 70 lien rights in and to the Property (and Wis. Stat. Ch. 70, 74, and 75 enforcement rights with respect to those lien rights and outstanding amounts secured thereby), and those lien rights shall specifically include and secure the 2002-2004 tax roll amounts, together with Wis. Stat. § 74.47 interest and penalties, all on a *nunc pro tunc* basis as if this settlement stipulation were never entered.

4. **Events of Default.** If MB defaults with respect to its payment duties hereunder, City may immediately, on ex parte motion to the Court, reinstate the Property in this litigation as if this Settlement Stipulation had never been accepted and approved by the parties and the Court, and City shall retain all rights at law and in equity to collect any amounts due and owing City. In such case, MB shall be deemed to have waived any defense to owing and/or having to pay any component item or portion thereof required under this Stipulation to be paid. And, the reinstatement of the in rem litigation against the Property shall also be deemed to include tax

year 2004. For sake of illustration only (and not in any way by means of limitation), if MB were to fail to timely make payment on the 2004-tax-roll amounts due hereunder, City could, upon ex parte motion filed hereunder, immediately resume its Wis. Stat. § 75.521 in rem foreclosure action against the Property, and such action would then include year 2004 tax roll amounts then owing, together with interest and penalties under Wis. Stat. § 74.47, and MB would not be allowed any extension of the timeline for redemption that applies in this action, and MB would not be allowed to file an answer under Wis. Stat. § 75.521 challenging such (MB hereby, in such case, agreeing to waive the one-year waiting period otherwise applicable under Wis. Stat. § 75.521(3)(a)2 with respect to year 2004), and MB would be then precluded from asserting, and in fact would not assert, any defense to City's foreclosure action. MB acknowledges that in personam judgments under Wis. Stat. § 74.53 do not extinguish or merge the City's § 70.01 lien rights, and that the City's § 70.01 lien rights exist until the tax amounts owed to City are either paid in full or successfully foreclosed under § 75.521.

5. **Parties Request Court-Approval.** The parties, having chosen to settle this matter on the terms and conditions contained herein, hereby respectfully request the Court to approve this Stipulation and to sign off on the "Order" portion below.

6. **City Approval.** City's Common Council approved this Stipulation per Common Council Resolution File No. 050064.

7. **MB Approval.** MB approved this Stipulation per MB Board of Director Resolution, dated _____.

8. **Bank Approval.** Bank duly approved Bank entry into this Stipulation for the purposes referred to herein and authorized signature of this document by or on behalf of Bank by Bank's attorney referred to below.

9. **Counterparts; Fax Signatures.** This document may be executed in one or more counterparts, which, when taken together, shall constitute one and the same document. Facsimile signatures shall be accepted as originals.

Dated and agreed to by the parties, by their respective attorneys, this _____ day of _____, 2005.

CITY OF MILWAUKEE
Grant F. Langley, City Attorney

**MOLECULAR BIOLOGY
RESOURCES, INC.**
Von Briesen & Roper, S.C.

By: _____
Genevieve O'Sullivan-Crowley
Assistant City Attorney
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800 City Hall
200 East Well Street
Milwaukee, WI 53202
(414) 286-2601 – Phone
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By: _____
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P.O. Box 3262
Milwaukee, WI 53201-3262
(414) 287-1238 - Phone
(414) 276-6281 - Facsimile

BANK: PARK BANK, N.A.

By: _____

Atty Joe Fenzel
State Bar No. _____
Joseph E. Fenzel, S.C.
757 N. Broadway, Suite 600
Milwaukee, WI 53202-3612
(414)224-1601 – Phone
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ORDER

The Court hereby accepts the above Stipulation and orders the same. MB is further ordered to make the payments to the City as called for herein. And, subject to and upon the terms and conditions set forth above, Parcel 23 (being 6143 N. 60th Street) is hereby dismissed from this in rem foreclosure action.

Dated in Milwaukee, Wisconsin this ____ day of _____, 200__.

BY THE COURT

HONORABLE DENNIS P. MORONEY
Circuit Court Judge, Branch 20

Doc No 92540
1050-2004-3520