

RESOLUTION NO. 2010- 1937

A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA, APPROVING AN AGREEMENT WITH GENOVESE JOBLOVE & BATTISTA, P.A. TO ASSIST THE TOWN OF SURFSIDE WITH THE COLLECTION OF VARIOUS SPECIAL ASSESSMENT LIENS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Surfside, Florida (“TOWN”) wishes to enter into an agreement with Genovese Joblove & Battista, P.A., a full-service law firm to assist the Town in lien foreclosure services on a fixed fee basis, which fee shall be deducted from lien monies; and

WHEREAS, the Town Commission believes that it is in the best interest of the Town to enter into a retainer agreement with Genovese Joblove & Battista (See attachment as Exhibit “A”);

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above and foregoing recitals are true and correct and are incorporated herein by reference.


Section 2. Authorization. The Town Commission hereby authorizes the execution of the agreement with Genovese Joblove & Battista, P.A. attached hereto as Exhibit “A” and authorizes the Town Attorney and Town Manager to do all things necessary to effectuate this Agreement.

Section 3. **Effective Date.** This Resolution shall become effective immediately upon its adoption.

PASSED and ADOPTED on this 8th day of June 2010.

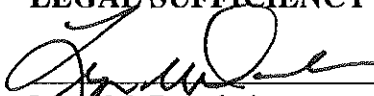


Daniel Dietch, Mayor

ATTEST:


Debra E. Eastman, MMC
Town Clerk

**APPROVED AND TO FORM AND
LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:**



Lynn M. Dannheisser
Town Attorney

GENOVESE
JOBLOVE &
BATTISTA
PA.
Attorneys at Law

RECEIVED
5/27/10

Richard Sarafan
Direct Line: 305.349.2318
Email: rsarafan@gjb-law.com

May 26, 2010

Via U.S. Mail
and Via Telefax 305-861-1302

Lynn Dannheisser
Town of Surfside
9293 Harding Avenue
Surfside, FL 33154

Re: Proposal for Lien Foreclosure Services

Dear Lynn:

Following up on our telephone conversation, this letter will confirm my keen interest in assisting the Town of Surfside with the collection of various special assessment liens. As you are aware, I have been the Village Attorney for Miami Shores Village for about 12 years and I have over 30 years experience litigating in South Florida, including extensive experience with foreclosure related litigation. I enclose some biographical information regarding my background and I would be happy to provide any additional information you or your Commission members might require.

We are currently handling a surprising large volume of lien foreclosure work for Miami Shores Village, as a result of the current economic conditions, and I suspect that Surfside might be experiencing some of the same dynamics. Our system currently in place with Miami Shores involves the Village generating the initial billing, first reminder letter and recordation of each lien. If those efforts are not successful in achieving payment the matter is forwarded to our firm where an attorney's demand letter is generated, followed, if necessary, by a lien foreclosure action. More commonly, the Village is named as a defendant in a mortgage foreclosure as a consequence of its recorded lien, in which event we file a cross-claim and counterclaim in that action, for foreclosure of the special assessment lien, and seek to resolve the matter expeditiously by means of having the mortgage holder pay the superior municipal lien (plus interest, attorney's fees and costs) and simply add that amount to its foreclosure claim. We have achieved a fair amount of success through these means but, where necessary, we can and do prosecute the foreclosure claims to completion in order to collect such liens.

I assume that the liens recorded by the Town of Surfside are such that the Town is entitled to recover its attorney's fees in connection with the enforcement thereof (as is the case with Miami Shores). Under the scenarios detailed above, except in the rare cases where we need to go all the way through a full foreclosure to enforce the municipal lien, our attorney's fees per

Lynn Dannheisser
Town of Surfside
May 26, 2010
Page 2

case have ranged from around \$1,500 to around \$2,500 (not including costs). Depending on the volume of cases we might expect to be generated by the Town of Surfside, I am certain we could reach agreement on a reasonable fee arrangement with due regard for the Town's cash flow concerns. Specifically, for example, we could propose an arrangement whereby the Town makes a fixed payment to our firm for each case we are asked to handle, sufficient to cover initial filing fees and costs (I am thinking somewhere in the range \$500.00) with our firm rendering monthly billings to the Town (which would also serve to keep the Town informed as to the progress of each action) but not requiring payment thereof until recovery of attorney's fees from the other side in the litigation or until the expiration of a reasonable specifically defined forbearance period (I am thinking of something in the order of 6 months, in order to protect the firm against having to carry excessive accounts receivable from the Town in the event of a hotly contested case or other unusual), whichever comes first.

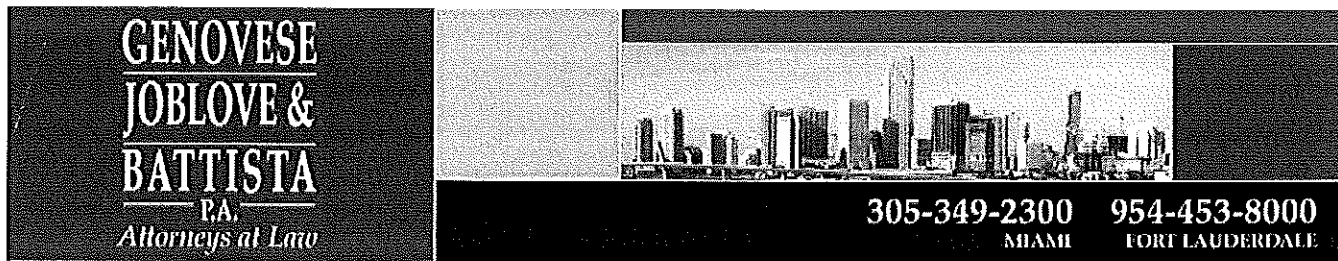
This is just one conceptual means of addressing the Town's concerns and I am totally open to discussing any alternative ideas you might have.

I look forward to discussing all of this with you after you have a better idea of what would best serve the interests of the Town of Surfside; and I thank you for the opportunity to be of service.

Very truly yours,


Richard Sarafan

RS/dr
Enclosure



ATTORNEY PROFILES

Richard J. Sarafan

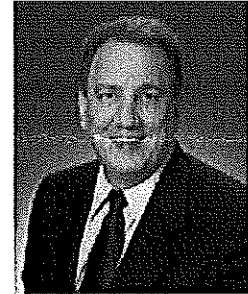
Miami, Florida

Partner

phone (305) 349-2318

fax 305-349-2310

email rsarafan@gjb-law.com



Richard J. Sarafan concentrates his practice in the areas of complex commercial, corporate, bankruptcy and real property litigation as well as local government law.

With 30 years of litigation experience, he has been involved in a wide range of matters including contract disputes, condominium related litigation, construction litigation, foreclosures, banking law, tort actions, arbitrations, administrative proceedings, partnership disputes and landlord tenant matters, among many others.

Mr. Sarafan is AV rated by Martindale-Hubbell and has been repeatedly named one of South Florida's top lawyers by the South Florida Legal Guide. He has also served as the Village Attorney for Miami Shores Village, Florida, since 1998. In that position, he has dealt with virtually all municipal issues, ranging from zoning and land use litigation, defense of police misconduct claims, municipal bond work, code enforcement issues and other areas of local government law.

Mr. Sarafan is a member of the Florida Bar and admitted to practice before the United States Court of Appeals for the Third and Eleventh Circuits, the General, Bankruptcy and Trial Bars of the United States District Court for the Southern District of Florida, the Bar of the United States District Court for the Middle District of Florida, and the Bar of the United States District Court for the Northern District of California. He received his Juris Doctor from the University of Florida College of Law, with honors, in 1979 and his Bachelor of Science degree from the University of South Florida in 1976.

Areas of Practice:

- Complex Commercial
- Corporate
- Bankruptcy
- Real Property Litigation
- Local Government Law

Litigation Percentage:

75% of Practice Devoted to Litigation

Bar Admissions:

Florida, 1980
U.S. District Court Southern District of Florida, 1981
U.S. District Court Middle District of Florida, 1994
U.S. District Court Northern District of California, 1990
U.S. Court of Appeals 11th Circuit, 1990
U.S. Court of Appeals 3rd Circuit, 1994

Education:

University of Florida College of Law, Gainesville, Florida, 1979
J.D.
Honors: With Honors

University of South Florida, Tampa, Florida, 1976
B.S.

Representative Clients:

Miami Shores Village

Honors and Awards:

AV Rated, Martindale-Hubbell

One of South Florida's Top Lawyers, South Florida Legal Guide

Professional Associations and Memberships:

Village Attorney, 1998 - Present
Miami Shores Village, Florida

Florida Bar
Member

Past Employment Positions:

Richard and Richard, Partner, 1979 - 2002

Languages:

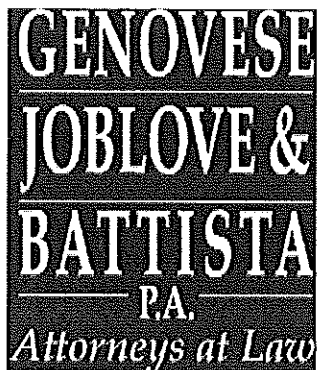
English

Fraternities/Sororities:

Phi Delta Phi

Birth Information:

July 8, 1955, Spring Valley, New York, United States of America



Wednesday, May 26, 2010
100 Southeast Second Street,
44th Floor
Miami, Florida 33131
Phone: (305) 349-2300
Toll Free: (888) 768-2499
Fax: (305) 349-2310

[Email Us](#) | [Get Directions](#)

200 East Broward Boulevard,
Suite 1110
Fort Lauderdale, Florida 33301
Phone: (954) 453-8000
Toll Free: (888) 768-2499
Fax: (954) 453-8010

[Email Us](#) | [Get Directions](#)

© 2010 by [Genovese Joblove & Battista P.A.](#). All rights reserved. [Disclaimer](#) | [Site Map](#)
[FirmSite®](#) by [FindLaw](#), a Thomson Reuters business.