

RESOLUTION NO. 91-102

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA RESPONDING TO A VERIFIED COMPLAINT TO ST. JOHNS COUNTY CHALLENGING CONSISTENCY OF A PURPORTED DEVELOPMENT ORDER, FILED JUNE 13, 1991.

WHEREAS, on May 14, 1991, the Board of County Commissioners of St. Johns County, Florida passed Resolution #91-84, finding certain properties within the unincorporated portions of St. Johns County ("County") to be a blighted area as that term is defined in §163.340, Fla. Stat. (1989);

WHEREAS, on June 13, 1991, certain landowners within the area so designated as a blighted area filed a verified complaint pursuant to §163.3215(1), Fla. Stat. (1989), challenging the designation as inconsistent with the St. Johns County Comprehensive Plan ("Complaint"), a true and correct copy of which is attached hereto as Exhibit A;

WHEREAS, the Board of County Commissioners desires to respond to the allegations contained within the Complaint;

BE IT RESOLVED this 2nd day of July 1991, by the Board of County Commissioners of St. Johns County, Florida ("Board") as follows:

Section 1. The Complaint purports to be based on §163.3215(1), Fla. Stat. (1989), and treats Resolution No. 91-84 as a "development order." §163.3215(1) is within the Florida statute titled County and Municipal Planning and Land Development Regulation, which governs matters such as the Comprehensive Plan and other land development regulations recently passed by this Board. §163.3215(1) grants

"any aggrieved or adversely affected party" the right to maintain an action for injunctive or other relief to prevent a local government from taking action on a development order.

Section 2. Development order is defined by the statute as "any order granting, denying, or granting with conditions an application for a development permit." A development permit includes "any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land." §163.3164(6)-(7), Fla. Stat. (1989).

Section 3. The Board action being challenged in the Complaint (Resolution No. 91-84) is a determination that certain lands within the unincorporated areas of St. Johns County are blighted areas as that term is defined by §163.340, Fla. Stat. (1989), appropriate for community redevelopment. The resolution does not authorize the issuance of a development permit of any type, and is not a development order under Chapter 163. Therefore, the Complaint is improperly drawn and inappropriately filed. In addition, the plaintiffs lack standing to file the Complaint.

Section 4. The Board, without waiving its position that the plaintiffs lack standing in this matter, further denies all other allegations in the Complaint, and specifically denies that the resolution caused the plaintiffs' land values to decline, and that the resolution is inconsistent with the County's Comprehensive Plan.

Section 5. This resolution is intended to be the response to the Complaint contemplated by §163.3215(4). A copy of this resolution shall be mailed forthwith to the plaintiffs' attorneys.

PASSED AND ADOPTED this 2nd day of July, 1991.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Donald A. Hould
Its Chairman

ATTEST:

Patricia DeGrasse
Deputy Clerk

BEFORE THE BOARD OF COUNTY COMMISSIONERS,
ST. JOHNS COUNTY, FLORIDA.

ALLIED HOLDING CORPORATION,
a Florida corporation,
NATIONAL SYSTEMS, INC.,
a Florida corporation,
ATLANTIC LIMITED, INC.,
a Florida corporation,
FIRST CAPITAL CORPORATION,
a Florida corporation, and
PAUL KWITNEY, as Trustee,

Plaintiffs,

vs.

ST. JOHNS COUNTY, FLORIDA,
a political subdivision of
the State of Florida, by and
through the Board of County
Commissioners of St. Johns
County, Florida,

Respondent.

CLERK OF THE BOARD OF COUNTY COMMISSIONERS

Q

91 JUN 13 4:39

RECEIVED

Case No.: _____

VERIFIED COMPLAINT TO
ST. JOHNS COUNTY CHALLENGING
CONSISTENCY OF DEVELOPMENT ORDER

Plaintiffs, Allied Holding Corporation, a Florida corporation, National Systems, Inc., a Florida corporation, Atlantic Limited, Inc., a Florida corporation, First Capital Corporation, a Florida corporation, and Paul Kwitney, as Trustee, request St. Johns County (the "County"), pursuant to §163.3215(1), to determine that the following development order issued by the Board of County Commissioners, St. Johns County, Florida (the "Board"), is inconsistent with the adopted local comprehensive plan (for the purposes of this Complaint, the term "local comprehensive plan" includes all applicable land development regulations adopted thereunder), and say:

1. Petitioners own undeveloped land in the platted subdivisions of Pinecrest and Surfside in St. Johns County (collectively the "Subdivisions").

2. Respondent is a local government whose chief administrative office is at Lewis Speedway and U.S. 1 North, St. Augustine, Florida.

3. The development order complained of herein was a determination that the Subdivisions were "blighted" as defined by §163.340, Fla. Stat. The Board heard allegations from John Lester ("Lester"), who is the Chairman of the County Redevelopment Agency ("CRA"), that three reasons supported the determination of blight:

(1) The predominance of defective or inadequate street layouts;

(2) Faulty lot layouts in relation to size, adequacy, accessibility, or usefulness; and

(3) Diversity of ownership of the lots.

4. Further, Lester alleged that four bases supported a determination that the Subdivisions suffered "arrested development" that supported a finding of blight:

(1) The Subdivisions lacked vehicular access;

(2) Many of the platted lots and roads were located in wetlands;

(3) The area lacked infrastructure; and

(4) The lots were too small to support single family homes.

5. The Board passed Resolution No. 91-84 (the "Resolution") on May 14, 1991, which determined that the Subdivisions were blighted. The Resolution was passed in order to support county

condemnation of the Subdivisions for resale to a developer or developers for development of single family homes.

6. Plaintiffs have standing to bring this action under §163.3215, Fla. Stat., as adversely affected persons, and say:

(a) Plaintiffs own real property within the Subdivisions. Their properties are within the boundaries of the County. Their properties are within the areas deemed to be "blighted". They will be injured by the enactment of the development order differently from and to a degree greater than others in the County. The determination of blight necessarily causes Plaintiffs' land values to decline and also allows the County to take Plaintiffs' properties by condemnation.

(b) Plaintiffs will show further standing to bring this action as stated herein.

7. The County has adopted a local comprehensive plan and land development regulations applicable to this case.

8. On May 14, 1991, the Board adopted the inconsistent development order.

9. The development order approved by the Board is inconsistent with the local comprehensive plan in the following manners:

(a) It fosters urban sprawl by encouraging destruction of largely pristine marshlands and sylvan uplands without any showing of need of the additional single family development and concomitant infrastructure;

(b) For the bases set forth in subparagraph (a), it encourages leapfrog development;

(c) It encourages elimination of public recreational areas in order to allow single family development in contravention of the Plan's emphasis on public recreational areas;

(d) It fosters public health risks by encouraging development that would eliminate wetlands and otherwise eliminating buffers against flooding and pollutant filtration, and adding to eutrophication of waters of the State;

(e) It fosters ground water loss and harm by encouraging development that would impede recharge to and cause pollution of the aquifer;

(f) It fosters a uniform suburban development at the cost of the historic neighborhood characteristics of the area in which the Subdivisions are located;

(g) It encourages development that would eliminate environmentally sensitive lands, including habitat of fish and wildlife, including threatened and endangered species;

(h) It encourages development that would eliminate open space;

(i) It fosters public health risks by encouraging development that would create sources of flood, drainage, and stormwater management problems; and

(j) It proposes to convert lots that are available for low income housing into high cost single family development.

7. For the purposes of this complaint, the Plaintiffs are treating the subject resolution as a development order. This pleading is not intended to act as an exclusive election of

remedies, nor are the Plaintiffs waiving any rights that they may have to challenge the resolution if it is deemed to be, inter alia, a land development regulation.

WHEREFORE, Plaintiffs request St. Johns County to find the development order inconsistent with the local comprehensive plan, and to repeal the order or to modify it to make it consistent with the plan, and for such other relief as may be meet and proper. If St. Johns County fails to do these things within thirty (30) days from the receipt hereof, Plaintiffs may take appropriate action in the Circuit Court.

I HEREBY CERTIFY that the matters above are true and correct to the best of my knowledge and belief and that a true copy has been submitted for filing this 13th day of June, 1991, by hand delivery to the St. Johns County Commission at the address stated in paragraph 2.

BRANT, MOORE, SAPP, MACDONALD
& WELLS, P.A.

BY: _____

Sidney F. Ansbacher
Florida Bar No. 611300
Suite 3100 - Barnett Center
50 North Laura Street
P.O. Box 4548
Jacksonville, Florida 32201
(904) 353-3100
Attorneys for Plaintiffs

STATE OF FLORIDA
COUNTY OF DUVAL

This instrument was acknowledged before me this 13th day of
June, 1991, by Sidney F. Ansbacher.

Carrie L. Megaw
Notary Public
State of Florida at Large
My Commission Expires:

tsa0417

NOTARY PUBLIC, STATE OF FLORIDA
My commission expires Jan. 15, 1995