

Legistar No. 980712

CITY OF GAINESVILLE
Office of the City Attorney

Memorandum

334-5011/Fax 334-2229

Box No. 46

November 23, 1998

TO: Mayor and City Commissioners

DATE: ~~NOVEMBER 9, 1998~~

FROM: Marion J. Radson, City Attorney

~~FIRST READING~~

SECOND READING

SUBJECT: Ordinance No. 0-98-114

An ordinance of the City of Gainesville, Florida, finding that property at 524 NW 4th Street, Gainesville, Florida, qualifies for an ad valorem tax exemption for historic properties; granting an exemption from ad valorem tax on certain improvements beginning January 1, 1999, and continuing for 10 years; adopting the Historic Preservation Exemption Covenant between the applicant and the City by reference; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission (1) approve the "Part 2—Request for Review of Completed Work" application; (2) adopt the proposed ordinance; and (3) authorize the Mayor to sign a covenant executing the full exemption for 10 years, subject to approval by the City Attorney to form and legality.

At the direction of the City Manager, the City Attorney has drafted an ordinance exempting certain historic property from ad valorem taxation for certain improvements as approved by the Historic Preservation Board.

Prepared by:



Patricia M. Carter
Assistant City Attorney

Approved and
Submitted by:



Marion J. Radson
City Attorney

MJR:PC:sw

PASSED ON FIRST READING BY A VOTE OF 5-0.

ORDINANCE NO. 0-98-114

An ordinance of the City of Gainesville, Florida, finding that property at 524 N.W. 4th Street, Gainesville, Florida, qualifies for an ad valorem tax exemption for historic properties; granting an exemption from ad valorem tax on certain improvements beginning January 1, 1999, and continuing for 10 years; adopting the Historic Preservation Exemption Covenant between the applicant and the City by reference; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, section 25-61 of the Code of Ordinances, City of Gainesville, authorizes ad valorem tax exemptions for eligible improvements to eligible properties pursuant to sections 196.1997 and 196.1998, Florida Statutes, and

WHEREAS, the owner of the property at 524 N.W. 4th Street, Gainesville, Florida 32601, has applied for an ad valorem tax exemption pursuant to section 25-61; and

WHEREAS, on July 1, 1997, the Historic Preservation Board approved Part 1 of the application for ad valorem tax exemption; and

WHEREAS, the applicant has completed the improvements and submitted Part 2 of the application for ad valorem tax exemption; and

WHEREAS, the Historic Preservation Board has recommended to the city commission that the exemption be granted; and

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the City Commission Auditorium, City Hall, City of Gainesville; and

1 **WHEREAS**, a Public Hearing was held pursuant to the published notice described at
2 which hearing the parties in interest and all others had an opportunity to be and were, in fact,
3 heard;

4 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
5 CITY OF GAINESVILLE, FLORIDA:

6 **Section 1.** The City Commission finds that the property at 524 N.W. 4th Street, Gainesville,
7 Florida, meets the requirements of section 196.1997, F.S., and of section 25-61, et seq., Code of
8 Ordinances, City of Gainesville, by being a contributing property in the Pleasant Street Historic
9 District, and is eligible to receive an ad valorem tax exemption pursuant to that section.

10 **Section 2.** The City Commission hereby grants an ad valorem tax exemption for 100 percent of
11 the assessed value of eligible improvements made to property at 524 N.W. 4th Street,
12 Gainesville, Florida, owned by Neighborhood Housing & Development Corporation, as
13 described on the Historic Preservation Property Tax Exemption Application Part 2, dated
14 September 28, 1998. This exemption applies only to those ad valorem taxes levied on the real
15 property by the City of Gainesville that are not levied for the payment of bonds or authorized by
16 a vote of the electors pursuant to section 9(b) or section 12, Article VII of the Florida
17 Constitution.

18 **Section 3.** This exemption shall take effect on January 1, 1999, and remain in effect for 10 years.

19 **Section 4.** The Historic Preservation Exemption Covenant, signed by the applicant and the
20 Mayor, attached and labeled as "Attachment 1", is made a part of this ordinance by reference.
21 The applicant is responsible for having this covenant recorded in the official records of Alachua
22 County, and providing a certified copy of the recorded covenant to the City Manager or designee.

1 **Section 5.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or
2 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect
3 the validity of the remaining portions of this ordinance.

4 **Section 6.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of such
5 conflict hereby repealed.

6 **Section 7.** This ordinance shall become effective immediately upon final adoption.

7
8 **PASSED AND ADOPTED** this _____ day of _____, 1998.
9

10
11 _____
12 PAULA M. DeLANEY
13 MAYOR
14

15
16 ATTEST:

Approved as to form and legality

17
18
19 _____
20 KURT M. LANNON
21 CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

22 This Ordinance passed on first reading this _____ day of
23 _____, 1998.

24 This Ordinance passed on second reading this _____ day of
25 _____, 1998.
26
27

HISTORIC PRESERVATION PROPERTY TAX EXEMPTION COVENANT

This covenant is made the 24th day of September, 19 98 by Neighborhood Housing and Development Corporation (hereinafter referred to as the Owner(s)) and in favor of City of Gainesville (hereinafter referred to as the Local Government) for the purpose of the restoration, renovation or rehabilitation, of a certain Property located at 524 NW 4th Street

which is owned in fee simple by the Owner and is listed in the National Register of Historic Places or locally designated under the terms of a local preservation ordinance or is a contributing Property to a national register listed district or a contributing Property to a historic district under the terms of a local preservation ordinance. The areas of significance of this Property, as identified in the National Register nomination or local designation report of the Property or the district in which it is located are xxx architecture, xxx history, archaeology.

The Property is comprised essentially of grounds, collateral, appurtenances, and improvements. The Property is more particularly described as follows (include city reference, consisting of repository, book and page numbers): City of Gainesville, Alachua County Official Records Brush Addn DB O-218 BK 26 Day S/D IN IN S1/2 of BK 26 PB A-36 E2/3 of Lot 15 OR 1842/0622

In consideration of the tax exemption granted by the Local Government, the Owner hereby agrees to the following for the period of the tax exemption which is from January 1, 1999, to December 31, 2008.

1. The Owner agrees to assume the cost of the continued maintenance and repair of said Property so as to preserve the architectural, historical, or archaeological integrity of the same in order to protect and enhance those qualities that made the Property eligible for listing in the

National Register of Historic Places or designation under the provisions of the local preservation ordinance.

2. The Owner agrees that no visual or structural alteration will be made to the Property without prior written permission of the Local Historic Preservation Office.

The address of the certified Local Historic Preservation Office is:

Name of Office/Agency: Department of Community Development

Address: Box 490 Station 11

City: Gainesville Fl Zip 32602

Telephone: (352) 334-5022

3. (Only for properties of archaeological significance) The Owner agrees to ensure the protection to the site against willful damage or vandalism. Nothing in this Covenant shall prohibit the Owner from developing the site in such a manner that will not threaten or damage the archaeological resource, provided that permission for alteration of the site is pursuant to 2, above.

4. The Owner agrees that the Local Historic Preservation Office, and appropriate representatives of the local government, their agents and designees shall have the right to inspect the Property at all reasonable times in order to ascertain whether or not the conditions of this Covenant are being observed. The City will inspect the property upon expiration of the exemption to ensure the terms of the Covenant have been upheld. In the event the original Owner (or any successive owners) sells the Property prior to the expiration of the exemption, the Buyer must arrange for an inspection by the Local Historic Preservation Office prior to closing to ensure that he or she does not assume responsibility for the prior owner's violation of the Covenant. Failure of the Buyer to have the Property inspected prior to closing shall create a

presumption that the Buyer is responsible for violations of this Covenant found at the next inspection. The current property owner is required to provide notice to Buyer and their heirs, successors or assigns of the existence of this covenant.

5. In the event of the non-performance or violation of the maintenance provision of the Covenant by the Owner or any successor-in-interest during the term of the Covenant, the Local Historic Preservation Office, will report such violation to the Property Appraiser and Tax Collector, who shall take action pursuant to s. 196.1997 (7), F.S. The Owner shall be required to pay the difference between the total amount of taxes which would have been due in March in each of the previous years in which the Covenant was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s.212.12 (3), F.S.

6. If the Property is damaged by accidental or natural causes during the Covenant period, the Owner will inform the Local Historic Preservation Office, in writing, of the damage to the Property, including (1), an assessment of the nature and extent of the damage; and (2) an estimate of the cost of restoration or reconstruction work necessary to return the Property to the condition existing at the time of project completion. In order to maintain the tax exemption, the Owner shall complete the restoration or reconstruction work necessary to return the Property to the condition existing at the time of project completion on a time schedule agreed upon by the Owner and the Local Historic Preservation Office.

7. If the Property has been destroyed or severely damaged by accidental or natural causes during the Covenant period, that is, if the historical integrity of the features, materials, appearance, workmanship, and environment or the archaeological integrity which made the Property eligible for listing in the National Register of Historic Places or the designation under the terms of the local preservation ordinance have been lost or so damaged that the restoration is not feasible, the Owner will notify the Local Historic Preservation Office, in writing, of the loss.

The Local Historic Preservation Office, will evaluate the information provided and notify the Owner in writing of its determination regarding removal of the Property from eligibility for tax exemption. If the Local Historic Preservation Office determines that the Property should be removed from eligibility for tax exemption, it will notify the Alachua County Property Appraiser in writing so that the tax exemption can be canceled for the remainder of the Covenant period. In such cases, no penalty or interest shall be assessed against the Owner.

8. If it appears that the historical integrity of the features, materials, appearance, workmanship, and environment, or archaeological integrity which made the Property eligible for listing in the National Register of Historic Places or designation under the terms of the local preservation ordinance have been lost or damaged deliberately or through gross negligence of the Owner, the Local Historic Preservation Office shall notify the Owner in writing. For the purpose of this covenant, "gross negligence" means the omission of care which even inattentive and thoughtless persons never fail to take of their own Property. The Owner shall have 30 days to respond, indicating any circumstances which show that the damage was not deliberate or due to gross negligence. If the Owner cannot show such circumstances, he shall develop a plan for restoration of the Property and a schedule for completion of the restoration. In order to maintain the tax exemption, the Owner shall complete the restoration work necessary to return the Property to the condition existing at the time of project completion on a time schedule agreed upon by the Owner and the Local Historic Preservation Office. If the Owner does not complete the restoration work on the agreed upon time schedule, the Local Historic Preservation Office will report such a violation to the Property Appraiser and Tax Collector who shall take action pursuant to s. 196.1997 (7), F.S. The Owner shall be required to pay the differences between the total amount of taxes which would have been due in March in each of the previous years in which the Covenant was in effect had the Property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s. 212.12 (3), F.S.

9. The terms of this Covenant shall be binding on the current Property Owner, transferees, and their heirs, successors, or assigns.

OWNER

DAVID HERKALO

Name DIRECTOR

[Signature]

Signature

12/20/38

Date

CITY OF GAINESVILLE

Mayor Paula DeLaney

Mayor or Designated Successor

Signature

Date

APPROVED AS TO FORM AND LEGALITY

Marion Radson

City Attorney

ATTEST

Kurt Lannon

Clerk of the Commission

