

Court Order (3)

Received
5/24/99
from P. at Haly

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

EVELYN HARTMAN, M.T.
HARTMAN, INA M. HARTMAN,
JANE H. SHANK and ANN H.
TRUBEY,

Plaintiffs,

vs.

CASE NO. : 84-2256-CA
DIVISION: I

ALACHUA COUNTY, a Political
Subdivision of the State
of Florida,

Defendant.

OFFICIAL RECORDS
95 MAY 10 AM 8:01
CIRCUIT COURT
ALACHUA COUNTY, FL.

FILED
CLERK OF CIRCUIT COURT
ALACHUA COUNTY, FL.
95 MAY - 8 01 4:43

SUGGESTION OF DEATH AND
NOTICE OF SUBSTITUTION OF PARTY

Michael Sherman Hartman and Frank Warren Hartman, as co-trustees under the unrecorded Trust Agreement dated August 20, 1992 known as the Merton Hartman, Jr. Revocable Trust, gives notice to the Court of the death of Plaintiff, M.T. Hartman, Jr. and give notice of their substitution as a party plaintiff in place of M.T. Hartman, Jr. and say:

1. On November 30, 1992, Merton T. Hartman, Jr., a plaintiff in this case, by deed recorded in Official Record Book 1885 page 2918 and by deed recorded in Official Record Book 1885 page 2920, transferred all of his ownership in the property which is the subject of this litigation, to Michael Sherman Hartman and Frank Warren Hartman as co-trustees under an unrecorded Trust Agreement dated August 22, 1992 known as the Merton T. Hartman, Jr. Revocable Trust. After November 30, 1992, Merton T. Hartman, Jr., ceased to have an interest in the property in suit. Michael Sherman Hartman and Frank Warren Hartman should be substituted as

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EXHIBIT
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parties plaintiff along with Evelyn Hartman, Ina M. Hartman, Jane H. Shank and Ann H. Trubey.

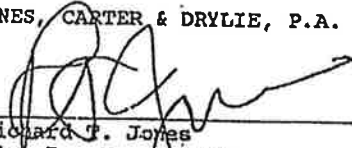
2. In addition to the transfer of interest by deed, M.T. Hartman, Jr. died in March of 1995. The property which is in suit is not subject to his estate because of the deed to Michael Sherman Hartman and Frank Warren Hartman.

3. Michael Sherman Hartman and Frank Warren Hartman agree to be bound by all proceedings in this cause before the date of this notice and by all subsequent proceedings. The substitution of them for M.T. Hartman, Jr. will in no way prejudice Alachua county nor delay the proceedings in this cause.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to MARY MARSHALL, ESQ., P.O. Box 2877, Gainesville, Florida 32602-2877, this 8th day of May, 1995.

JONES, CARTER & DRYLIE, P.A.

By: 
Richard T. Jones
Fla. Bar No. 040640
912 N.E. 2nd Street
P. O. Box 1526
Gainesville, FL 32601
(904) 372-4263
Attorney for Plaintiffs

RECORDED
OFFICIAL RECORDS
1988 FEB 10 A 8 14
CLERK OF CIRCUIT COURT
ALACHUA COUNTY FL

MANDATE

From

DISTRICT COURT OF APPEAL OF FLORIDA
FIRST DISTRICT

FILED
1988 FEB - 8 PM 5:00
CLERK OF CIRCUIT COURT
ALACHUA COUNTY FL

APPEALS

To the Honorable, the Judges of the _____ Circuit Court for Alachua County

WHEREAS, in that certain cause filed in this Court styled: _____

EVELYN HARTMAN, et al.

-vs-

Case No. PS-371

ALACHUA COUNTY, a political
subdivision of the State of
Florida

Your Case No. 84-2256-CA

The attached opinion was rendered on December 1, 1987

YOU ARE HEREBY COMMANDED that further proceedings be had in accordance with said opinion, the rules of this Court and the laws of the State of Florida.

WITNESS the Honorable Larry G. Smith

Chief Judge of the District Court of Appeal of Florida, First District and the Seal

of said court at Tallahassee, the Capitol, on this

5th day of February, 1988



Karen Roberts
Clerk, District Court of Appeal of Florida,
First District
Deputy

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IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

ALACHUA COUNTY, a political
subdivision of the State of
Florida,

Appellant,

V.

EVELYN HARTMAN, ET AL.,

Appellees.

* NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION AND
DISPOSITION THEREOF IS FILED.

* CASE NO. BS-371

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APPEALS
FILED
1989 FEB - 8 PM 5:08
CLERK DISTRICT COURT
FIRST DISTRICT

Opinion filed December 1, 1987.

An appeal from the Circuit Court for Alachua County.
Chester B. Chance, Judge.

Thomas A. Bustin, County Attorney; and Thomas D. MacNamara,
Assistant County Attorney, Gainesville, for appellant.

Richard T. Jones, of Jones & Carter, Gainesville, for appellees.



I CERTIFY THE ABOVE
TO BE A TRUE COPY
Karen Roberts
CLERK DISTRICT COURT OF
APPEAL, FIRST DISTRICT

WIGGINTON, J.

Appellant, Alachua County, appeals a second amended final
judgment finding the present zoning category and land use
designation on appellees' property to be invalid and ordering the
County to place a zoning category and land use designation on the
property that is consistent with the surrounding zoning and land
uses and not more restrictive or less intensive than commercial

except for an approximately 4-acre wetlands area. In the alternative, the trial court ruled that the County may designate the land as an activity center as described in the County's Comprehensive Plan Land Use 2000.

Having thoroughly examined the extensive record, which includes videotapes and numerous maps, and having read and heard the arguments of the parties, we find that competent, substantial evidence supports the trial judge's resolution of the conflicts in the evidence and his conclusions.

AFFIRMED.

BOOTH AND THOMPSON, CJ., CONCUR.

NOV 18 1985 PM 3:50

ALACHUA COUNTY, FLORIDA

IN THE CIRCUIT COURT, EIGHTH JUDICIAL CIRCUIT, IN AND FOR ALACHUA COUNTY, FLORIDA.

EVELYN HARTMAN, et al.,

Plaintiffs,

-vs-

ALACHUA COUNTY, a Political Subdivision of the State of Florida, Defendant.

CASE NO. 84-2256-CA

DIVISION I

RECORDED
OFFICIAL RECORDS
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ALACHUA COUNTY FL
COURT

FINAL JUDGMENT FOR PLAINTIFFS

THIS CAUSE coming on before this Court for trial without a jury, and after hearing testimony of the witnesses, reviewing written arguments submitted by counsel, considering various Memo andums of Law submitted, and being fully advised in the premises, the Court finds as follows:

1. The Plaintiffs, EVELYN HARTMAN, M.T. HARTMAN, INA M. HARTMAN, JANE H. SHANK, and ANN H. TRUBEY, hereinafter referred to as "HARTMAN", filed a Complaint for Declaratory Relief pursuant to Chapter 86 of the Florida Statutes alleging that they were in doubt about their rights regarding zoning and land use restrictions on their property. Plaintiffs have alleged that the current agricultural zoning and residential land use restrictions are inconsistent with the character, zoning and land use of immediately surrounding property, and the existing zoning bears no rational relationship to the public health, safety or welfare. Further they argued that the classifications are arbitrary and capricious as they deny the owners all reasonable beneficial use of the property. Further the Plaintiffs seek this Court to enter an Order zoning and land use changes to not less than commerical.

2. The Defendant, ALACHUA COUNTY, filed its Answer and

EVELYN HARTMAN, et al
vs. ALACHUA COUNTY
CASE NO. 84-2256-CA

four Affirmative Defenses alleging that the requested commercial zoning and land use was inconsistent with the Comprehensive Land Use Plan of 1975 through 1995 and inconsistent with Comprehensive Land Use Plan 2000 and they deny that the present zoning denies all reasonable beneficial use to an appropriate intervening zoning category.

3. The parcel of land in question is a somewhat triangular shaped piece of property of approximately 25.9 acres with its northern boundary of 382 feet extending along Northwest 53rd Avenue (a two-lane undivided highway) and to the north of that highway is a recently constructed Sprint Service Station and convenience store, an automotive repair shop, a video rental store, a flower shop and a Scotty's Lumber Yard and Home Repair Center. The east property line extends approximately 1770 feet south along U.S. 441 (a four-lane divided highway). Immediately to the east of 441 are railroad tracks and to the east of railroad tracks is a horse and cattle trailers sales operation, a warehouse currently occupied by Sears and Roebuck, a propane gas storage area and a livestock market. The land immediately to the south of the subject property and along 441 is being used as a Honda motorcycle shop and south of that are other commercial uses of a trailer sales, boat sales and Dub's Lounge. The property is bounded on the east by unoccupied property presently owned by the HARTMANS.

4. The property is presently being used for commercial purposes in that there is presently on the subject property a commercial golf driving range which has existed since 1957 and a commercial mobile homes sales lot which has existed since 1961.

EVELYN HARTMAN, et al
vs. ALACHUA COUNTY
CASE NO. 84-2256-CA

5. The Court, during the course of the trial in this cause, has heard expert witnesses presented both by the Plaintiff HARTMAN and the Defendant ALACHUA COUNTY as to the feasibility of using the property in question for residential development.

6. The Defendant through its experts has been unable to present any comparable successful multi-family residential development in the Gainesville area. All the sites that the Defendant seeks to show as comparable sites either are not bounded by intensive commercial and industrial use such as the site in question or are those that are in close proximity to the University of Florida and obviously cater to a student or University related tenant.

7. The HARTMAN property is far removed from the University of Florida and both the distance and the surrounding business uses indicate that this is not a University related residential area.

8. The expert witnesses presented by the Plaintiff HARTMAN indicate that this is not an area suitable for either single or multi-family residential use and any existing multi-family rental units in the area have an inordinately high vacancy rate.

9. There is no credible evidence in the record that would show there is any natural or manmade barrier or boundary that would separate the HARTMAN property from the existing commercial and industrial uses in the area nor is there any indication that this land is so environmentally sensitive that it cannot be reasonably developed for commercial purposes.

WHEREFORE, based on the findings above, it is

EVELYN HARTMAN, et al
vs. ALACHUA COUNTY
CASE NO. 84-2256-CA

ORDERED and ADJUDGED as follows:

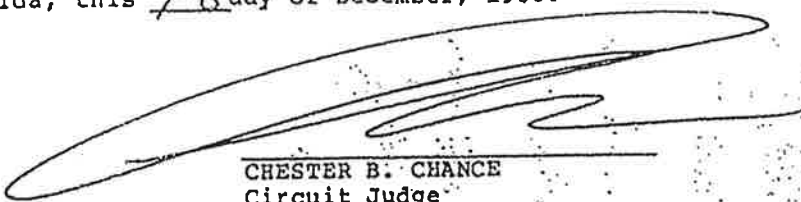
1. Judgment is entered for the Plaintiffs HARTMAN and against the Defendant ALACHUA COUNTY.

2. The present zoning category and land use designation on the Plaintiffs' property is invalid.

3. The Defendant ALACHUA COUNTY is ordered to place a zoning category and land use designation on that portion of the Plaintiffs' property that lies west of the west right-of-way line of U.S. 441 for a distance of Four Hundred Fifty (450) feet consistent with the surrounding zoning and land uses and not more restrictive or less intensive than commercial except for that portion of the property that has been previously described in the testimony before this Court as wetlands and consist of approximately four (4) acres. In the alternative the Defendant ALACHUA COUNTY may designate the entire 25.9 acres in question an activity center as described in Comprehensive Plan Land Use 2000. Said activity center shall include not less than fifty (50%) percent commercial development.

5. That this Court reserves ruling on the question of costs upon the filing of appropriate motions to tax costs.

DONE AND ORDERED in Chambers at Gainesville, Alachua County, Florida, this 18th day of December, 1986.


CHESTER B. CHANCE
Circuit Judge

COPIES TO:

Richard T. Jones, Esq.
Thomas D. MacNamara, Esq.

RECORDED
OFFICE RECORDS

1987 MAR 20 AM 8 30

IN THE CIRCUIT COURT OF FLORIDA,
EIGHTH JUDICIAL CIRCUIT, IN AND
FOR ALACHUA COUNTY. CIVIL ACTION.

ALACHUA COUNTY, a political
subdivision of the State of
Florida,

Defendant, Appellant.

vs.

EVELYN HARTMAN, et al.,

Plaintiffs, Appellee

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CASE NO. 84-2256-CA

DIVISION "G"

FILED
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APPEALS

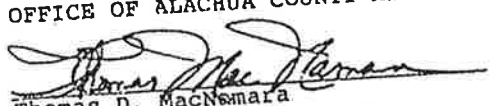
NOTICE OF APPEAL

NOTICE IS GIVEN that Alachua County, Defendant, Appel-
lant, appeals to the First District Court of Appeal the Second
Amended Final Judgment for Plaintiffs rendered by this Court on
March 5, 1987. The nature of the order is a final order invali-
dating zoning and land use and ordering commercial zoning.

Respectfully submitted this 19th day of March, 1987.

OFFICE OF ALACHUA COUNTY ATTORNEY

By:



Thomas D. MacNamara
Assistant County Attorney
Post Office Drawer "CC"
Gainesville, FL 32602
(904) 374-5218
Attorney for Defendant/Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Notice of
Appeal has been furnished to Richard T. Jones, attorney for Plain-
tiffs, Post Office Box 1526, Gainesville, Florida, 32602, by
United States mail this 19th day of March, 1987.


Of Counsel

830239

1656 PAGE 328

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

EVELYN HARTMAN, M.T.
HARTMAN, INA M. HARTMAN,
JANE H. SHANK and ANN H.
TRUBEY,

Plaintiffs,

vs.

CASE NO.: 84-2256-CA
DIVISION: I (Judge Chance)

ALACHUA COUNTY, a Political
Subdivision of the State
of Florida,

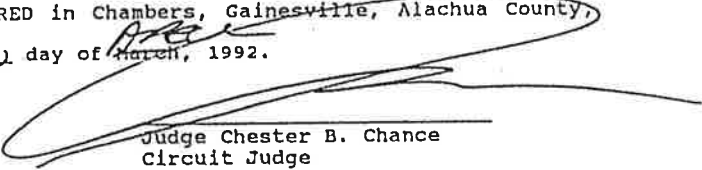
Defendant.

RECORDED
92 APR 29 AM 8:10
CLERK OF CIRCUIT
COUNTY COURT
ALACHUA COUNTY, FL.

ORDER TAXING COSTS

This cause is before the Court on the Stipulation to Tax Costs and the Court having reviewed the stipulation it is ORDERED and ADJUDGED that costs in the amount of \$44,309.52 are taxed against the defendant for which let execution issue.

DONE AND ORDERED in Chambers, Gainesville, Alachua County, Florida on this 20 day of March, 1992.


Judge Chester B. Chance
Circuit Judge

CERTIFICATE OF SERVICE

I hereby certify that a copy has been furnished by mail to: Richard T. Jones, Esq., P.O. Box 1526, Gainesville, FL 32602 and to Mary Marshall, County Attorney, P.O. Drawer CC, Gainesville, FL 32602 on this 20 day of March, 1992.


Judicial Assistant

1130595

O.R.
EK 1855 PG0774