

# MEMORANDUM

Office of the City Attorney

001308  
Phone: 334-5011/Fax 334-2229  
Box 46

**TO:** Mayor and City Commissioners

**DATE:** May 14, 2001

**FROM:** City Attorney

**CONSENT**


**SUBJECT:** Dwight Adams v. City of Gainesville;  
Alachua County Case No.: 2001-1560-CA

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Recommendation: The City Commission authorize the City Attorney to represent the City in the case styled Dwight Adams v. City of Gainesville, Alachua County Case No.: 2001-1560-CA.

On May 2, 2001, the City was served with a summons and complaint from Dwight Adams. Mr. Adams alleges that CRA money spent to advertise and promote downtown is really money spent to promote private businesses and enterprise. He seeks an order enjoining the City from spending the money.

Prepared by:

  
Elizabeth A. Waratuke,  
Litigation Attorney

Submitted by:

  
Marion J. Radson,  
City Attorney

IN THE CIRCUIT/COUNTY COURT OF THE EIGHTH JUDICIAL CIRCUIT,  
IN AND FOR ALACHUA COUNTY, FLORIDA  
CIVIL DIVISION, ALACHUA COUNTY COURTHOUSE  
201 East University Avenue - Post Office Box 600  
Gainesville Florida 32602  
PHONE (352) 374-3636 • FAX (352) 338-3207

3274  
Calendared  
Pr

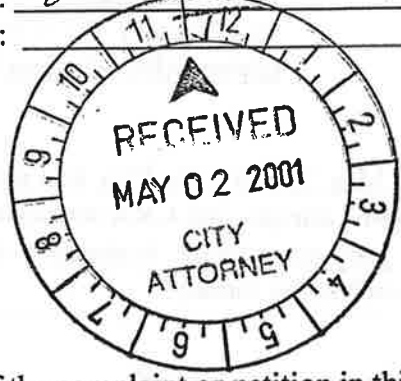
2001 APR 26

Dwight Adams  
PLAINTIFF

A TRUE COPY  
STEPHEN M. OELRICH, SHERIFF  
ALACHUA COUNTY, FLORIDA  
Served at 11:50 AM, on the 2 day  
of May, 2001  
By K. B. [unclear]  
As Deputy Sheriff

-vs- City of Gainesville, Florida  
DEFENDANT

Case No.: 2001-1560 CA  
Division: \_\_\_\_\_



**SUMMONS**

**THE STATE OF FLORIDA**  
**To Each Sheriff of the State:**

YOU ARE COMMANDED to serve this summons and a copy of the complaint or petition in this action on defendant

c/o Paula DeBarney, Mayor  
City of Gainesville, Florida  
East University Ave., Gainesville, FL. 32609

Each defendant is required to serve written defenses to the complaint or petition on plaintiff's attorney whose name and address is

Joseph Willette  
3731 NW 13th Place  
Gainesville, FL. 32605

within 20 days after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

WITNESS my hand and the seal of said Court on 4/26/01



J.K. "Buddy" Irby  
Clerk of Circuit Court

By Shaunna Beckham  
Deputy Clerk

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the Alachua County Court Administrator at (352) 374-3648, within 2 working days of your receipt of this summons. If you are hearing or voice impaired, call 1-800-955-8771.

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

DWIGHT ADAMS,

Case Number: 2001- 1560 CA  
Div. J

Plaintiff,

v.

CITY OF GAINESVILLE,  
FLORIDA.

Defendants.

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**COMPLAINT  
FOR DECLARATORY JUDGMENT  
AND INJUNCTIVE RELIEF**

Plaintiff Dwight Adams sues the City of Gainesville, Florida,, and respectfully seeks a Declaratory Judgment holding, as a matter of law, that certain actions taken by the City Commission of the City of Gainesville, sitting as the Gainesville Redevelopment Agency pursuant to Chapter 163 Fla. Stat., to appropriate and authorize the expenditure of public funds in an amount of \$10,000 more or less obtained by the levy of ad valorem taxes pursuant to general laws and Article VII §9(b) Florida Constitution to be expended for commercial advertisements promoting the dominate economic interests of private corporations, private proprietors and other private businesses operating in downtown Gainesville constitutes an unconstitutional appropriation and expenditure of public funds in violation of Article VII §10 Florida Constitution, and seeks an order of injunction directing the defendant and all agents or employees thereof not to appropriate or expend any public funds of the City of Gainesville unconstitutionally in this manner.

### **Jurisdiction**

1. This Court has jurisdiction of this action pursuant to Article V § 4 Florida Constitution, Chapter 26 Fla. Stat. and Chapter 86 Fla. Stat.

### **Parties**

2. Dwight Adams is resident, citizen and taxpayer of the City of Gainesville, Alachua County, Florida, and has been at all times material hereto.
3. The City of Gainesville is a municipal corporation organized by law pursuant to Article VIII §2 Florida Constitution.

### **Factual Allegations**

4. The City Commission of the City of Gainesville has executed the powers granted by Part III, Chapter 163 Fla. Stat. to organize a community redevelopment district that includes large portions of the downtown geographic area of the City of Gainesville within its boundaries.
5. The City Commission of the City of Gainesville has designated itself as the community redevelopment agency of the foregoing district pursuant to §163.357 Fla. Stat.
6. The City of Gainesville redevelopment agency obtains funds from the levy of ad valorem taxes in the redevelopment area pursuant to authority granted by Chapter 163 Fla. Stat.
7. The primary purposes for the creation of the redevelopment agency and the exercise of its powers is to eliminate blight and slums and the related menaces to public

health, safety, morals and welfare of the residents of the state and to control the spread of crime and disease.

8. On or about April 16, 2001, the City Commission of the City of Gainesville, acting as the redevelopment agency approved the appropriation of a sum of money in the amount of \$10,000 more or less from the public funds of the City of Gainesville maintained in the accounts of the redevelopment agency for the purpose of purchasing commercial advertisements to advertise the goods and services being sold by downtown private merchants, private business corporations, private proprietors, private partnerships and other private business operations.
9. The dominant and primary purpose of the appropriation of public funds, referred to above, is to fund the advertisements referred to in the foregoing paragraph for the dominate purpose of accruing private gain and benefit to the downtown private merchants, private business corporations, private proprietors, private partnerships and other private business operations .
10. This appropriation and proposed expenditure are only indirectly and incidentally related to elimination of slums and blight and the suppression of disease and crime, if at all.
11. Any finding made by the City of Gainesville, contrary to the foregoing statement, is arbitrary, capricious, unreasonably and unsupported by evidence or fact.
12. Any benefit to the general public and general welfare of the public and any public purpose served by the appropriation and expenditures for the advertisements referred

to herein will be merely incidental to the dominant private benefit.

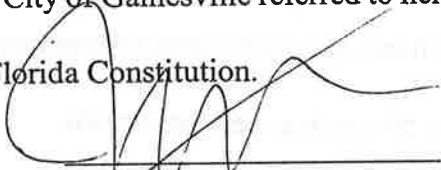
13. The City of Gainesville redevelopment agency has no paramount public purpose to be served by the foregoing appropriation and expenditures.
14. The actions of the City Commission of the City of Gainesville referred to herein are unconstitutional in violation of Article VII §10 Florida Constitution.

### COUNT 1

Plaintiff Adams realleges paragraphs 1-14, sues the City of Gainesville, and demands the following relief:

1. An order enjoining the City of Gainesville and all agencies and employees thereof from appropriating or expending public funds of the City of Gainesville for the purpose of funding advertisements for the dominate benefit of private corporations and other persons under the circumstances stated herein.
2. An order declaring the actions of the City of Gainesville referred to herein to be unconstitutional under Article VII §10 Florida Constitution.

DATED: April 26, 2001.



Joseph W. Little  
Florida Bar No. 196749  
Attorney for Plaintiff Adams  
3731 N.W. 13<sup>th</sup> Place  
Gainesville, Florida 32605  
352-392-2211

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