

Board of County Commissioners

Agenda Request

Date of Meeting: June 21, 2009

Date Submitted: June 16, 2010

To: Honorable Chairman and Members of the Board

From: Commissioner Kessler

Subject: Request Board Approval to Authorize County Attorney to Research and Institute Legal Action Relating to Racially Restrictive Covenant in Wakulla Gardens Subdivision

Statement of Issue:

This agenda item requests the Board to authorize and direct the County Attorney to research possible legal causes of action and institute a legal action relating to a racially restrictive deed covenant applicable to all lots located within the Wakulla Gardens Subdivision.

Background:

This issue was initially raised by a realtor working within Wakulla County who approached the County to determine whether there was any action the County could take to remove or address a race-based deed restriction on all properties in Wakulla Gardens Subdivision. See the Restrictions document attached hereto as Attachment 1. She noted that she and other realtors in Wakulla County are offended and embarrassed to provide these restrictions to potential property owners in the Subdivision.

Analysis:

Race-based discrimination in housing is not only offensive, but is also illegal under federal law and state law. Under the Civil Rights Acts of 1866 and 1968, specifically in 42 USC s. 3604, it is unlawful to discriminate against any person in the sale or rental of a dwelling based on race, and it is further unlawful to print any statement with respect to the sale or rental of a house that indicates a preference, limitation, or discrimination based on race. Section 760.23, Florida Statutes, similarly declares unlawful such discrimination and activities in the sale or rental of housing.

The deed restrictions for Wakulla Gardens were adopted in 1964 by The Panacea Development Corporation, which has since been dissolved. Though it is unknown whether any person has ever attempted to enforce the deed restrictions in the Wakulla Gardens Subdivision, the race-based restriction is clearly illegal, embarrassing, and offensive. This agenda item seeks Board discussion and ultimately approval to authorize the County Attorney to conduct legal research and to institute a legal action to address the deed restrictions in Wakulla Gardens.

The County Attorney's office has indicated that, if the Board approves this request, the normal litigation and other legal fees would be waived, and the legal work in this matter would be performed on a pro bono basis, so long as the County was willing to pay any associated costs. Potential costs

would include filing fees and other court fees in either state or federal court, and notification costs associated with providing notice to the residents of the Wakulla Gardens Subdivision. In addition, the County Attorney's office has indicated that any potential legal relief would be sought against the officers of the original development corporation.

Options

1. Authorize County Attorney to Research and Institute Legal Action Relating to Racially Restrictive Covenant in Wakulla Gardens Subdivision.
2. Do Not Authorize County Attorney to Research and Institute Legal Action Relating to Racially Restrictive Covenant in Wakulla Gardens Subdivision.
3. Board Direction.

Recommendation

Option #1

Attachment(s):

1. Deed Restrictions for the Wakulla Gardens Subdivision