

IN THE CIRCUIT COURT FOR FLAGLER COUNTY, FLORIDA

FLAGLER COUNTY, FLORIDA, :
 a subdivision of the State :
 of Florida, :
 Petitioner, :
 vs. : Case No. 76-131-CA-01
 DIMENSION INVESTMENT : Division C
 CORPORATION, a Florida :
 corporation, :
 Defendant. :
 _____ :

FINAL JUDGMENT

This cause came on to be heard upon defendant's Motion for Summary Judgment. The Court has considered the pleadings, answers to interrogatories and admissions on file, and the oral and written argument of counsel for both parties. This is an action for a declaration of plaintiff's and defendant's rights and obligations with respect to paving and maintaining streets in the "Daytona North" subdivision described in the plat attached to the Complaint. Counsel agreed that the two principal issues before the Court are:

1. Whether the County has any obligation or duty, running either to defendant or any purchaser in a lot in the subdivision, to pave or maintain streets in the subdivision by virtue of the acceptance of the plat for filing. The Court holds the County has no such duty, particularly in view of the provisions of Florida Statutes 177.081, and holds that the County assumed no such duty by the acceptance of the plat as reflected on the face of the plat or in the minutes of the meeting at which the plat was accepted for filing.
2. Whether the subdivision regulations attached to the complaint, under which the plat was filed, or

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the language of the dedication of streets to the plat, require defendant to pave the streets in the subdivision. The Court holds that the language of the subdivision regulations does not mandatorily require defendant to pave the streets, but merely prescribes the specifications and conditions under which the County will, by subsequent resolution, accept the streets for maintenance if the streets are paved at the election of the defendant. The Court is of the opinion that any obligation with respect to improvements would derive only from defendant's relationship with its customers, which is not in issue in this case and as to which the Court makes no ruling.

Each of these issues requires only the consideration of the language of the statutes, regulations and the plain wording of the documents, and does not require any determination of any issue of fact. The Court's decision on these two issues makes unnecessary a decision on the validity of the regulations, waiver, or the other issues raised by the pleadings. Premises considered, it is thereupon

ORDERED, DIRECTED AND ADJUDGED that:

1. Plaintiff Flagler County is not obligated either to defendant or any prior or future purchaser of a lot in the subdivision to construct or maintain streets or other improvements in Daytona North subdivision by virtue of the acceptance of the plat of the subdivision. Acceptance of the plat by Flagler County did not constitute an acceptance of ownership of the roads contained in the plat and said roads are not owned or maintained by the County.

2. Neither the December 18, 1972 subdivision regulations attached to the complaint nor the dedication and acceptance on the face of the plat nor the recitation in the minutes of the Board of County Commissioners accepting the plat require

the defendant to pave the streets in the subdivision.

3. In view of the Court's ruling on the issues as to which declaratory judgment was sought, the injunctive relief requested is inappropriate. Accordingly, having by this final judgment declared the rights of the parties, and there being no further judicial labor to be done, the Court orders that this action be and the same is hereby dismissed, each party to bear its own costs.

DONE AND ORDERED in Chambers at Bunnell, Florida, this 28th day of February, 1977.

[Handwritten Signature]
CIRCUIT JUDGE

Copies furnished to:

Noah C. McKinnon, Jr., Esquire
Peter J. Winders, Esquire

Unofficial Copy

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SHELTON BARBER
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FLAGLER COUNTY, FLA.

[Handwritten Signature]

