

IN THE UNITED DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

BEATRICE HOUSTON, et.al.

Plaintiffs,

vs.

CIVIL ACTION 6:89-CV-00082-PCF

THE CITY OF COCOA, et.al.

Defendants.

SUBSTITUTE CONSENT DECREE

WHEREAS, the Plaintiff Class and the Defendants, City of Cocoa and City Redevelopment Agency (Defendants), agree that the Consent Decree entered by the parties in July 1990 (Dkt. #55) no longer meets the needs of the parties and should be modified; and

WHEREAS, the parties agree that a substitute consent decree should be entered; and

WHEREAS, the parties have negotiated in good faith to resolve their outstanding differences; and

WHEREAS, the parties wish to maintain the residential character of the consent decree area;

WHEREAS, the parties have reached agreement on the payment of attorneys' fees and costs to Plaintiffs' Counsel, Southern Legal Counsel, Inc.;

NOW THEREFORE, it is agreed:

1. The Consent Decree entered on July 25, 1990 (Dkt. # 55) is no longer in effect and this Substitute Consent Decree shall take its place.
2. The area of the City of Cocoa ("Consent Decree Area" or "CDA") is the same as described in the original consent decree as modified by the parties joint stipulation filed July 14, 1988 (Dkt. #179), correcting one section of the CDA's boundaries. This motion was granted on July 17, 1988 (Dkt. # 179-1).

I. ZONING

3. The City shall maintain zoning regulations that apply to the Consent Decree Area that are intended to:

- (1) maintain the CDA's low density residential character;
- (2) continue to encourage the voluntary replacement of Wholesale Commercial uses, as defined and enumerated in the City Code, Appendix A-Zoning, Article XI, Section 15, with low density residential uses or less intensive neighborhood commercial uses such as mixed use developments where residential serves as the primary use, while preserving rights to existing uses as provided by law; and,
- (3) continue to encourage the production and development of affordable homes in the CDA by the private sector through zoning incentives for

the CDA including, but not limited to, any incentives that are currently in place.

II. CRA'S REDEVELOPMENT PLAN

4. The City and the Redevelopment Agency, through the Redevelopment Agency's Redevelopment Plan, shall continue to support programs for improvement of rental housing, and continue to support the program for infill housing and new construction of affordable housing to low and low to moderate income persons in the CDA. To that end, the City and the Redevelopment Agency shall continue to support affirmative measures to support rehabilitation of rental units and owner occupied houses for members of the Plaintiff Class. The City and the Redevelopment Agency shall continue to investigate and, where appropriate, apply for funds from federal, state, and local agencies for improvement of rental housing and owner occupied houses and provision of rental assistance to low and low to moderate income tenants.

5. The City shall continue to support applications for Section Eight certificates, vouchers, and other forms of rental assistance for low income renters. The City shall make affirmative efforts to promote the use of such rental assistance in conjunction with rental rehabilitation of units to ensure the continued affordability of rehabilitated units to members of the Plaintiff class who are low income renters and to take such other measures as are appropriate to prevent displacement of members of the Plaintiff class who are low income renters from rehabilitated units.

6. The City and the Redevelopment Agency shall continue to support the development of new single family residences on vacant lots in the CDA for low and low to moderate income families and to support the rehabilitation of the unoccupied and occupied single family houses in poor condition in the CDA to the extent rehabilitation is physically and financially practicable. The City shall continue its program of the housing bonus program whereby construction or rehabilitation of a qualifying affordable housing unit is required in the CDA. The City and the Redevelopment Agency shall also continue to support non-profit community development corporations which wish to construct new single family homes within the CDA on vacant lots.

7. The City and the Redevelopment Agency may enhance the residential character of, and neighborhood amenities within, the CDA by supporting appropriate neighborhood commercial uses on CDA lots as provided in section I.3(2) above and on CDA lots located along the outermost perimeter of the CDA and adjacent to Florida Avenue, US Highway 1, SR 520, or Rosa L. Jones Drive.

III. CONSISTENCY CLAUSE

8. The City shall maintain provisions with the City's Comprehensive Plan with the intent to:

- (1) denote and protect the CDA's low density residential land

use;

(2) recognize and preserve the historic resources in the CDA;

and

(3) reflect the goals of housing and neighborhood improvement for the CDA as set forth in this Substitute Consent Decree.

IV. FUTURE ASSURANCES

9. Defendants agree not to initiate a rezoning of the CDA or take any action in the CDA which has the purpose or effect of involuntarily displacing current or future members of the Plaintiff class. In the event of a rezoning initiated by the request of a property owner, the City agrees to give due weight to preserving the low density residential and historic character of the CDA in acting on the rezoning request.

10. In rezonings initiated by property owners, the City agrees to provide individual mailed notice to all property owners and residents in the CDA living within 500 feet of property considered for rezoning, together with all other notice required under applicable laws. In any city-initiated rezoning involving any property in the CDA, the City shall provide individual mailed notice to all residents and property owners of the CDA which notice shall refer to and explain the terms of the Consent Decree, together with all other notice required under law. Notice to property owners shall be taken from tax records maintained by the City.

Notice to residents may be addressed to "Occupant" at the address of each unit located in the CDA.

11. The City agrees to enforce the current provisions of the RU-2-10 zoning code and all ordinances applicable to CW uses which were existing as of March 8, 1988, requiring the removal or regulation of junk yards or unenclosed storage areas in the CDA . However, nothing herein shall be construed to prohibit the City from re-codifying or renumbering those provisions elsewhere in the Code or adopting more stringent zoning amortization provisions related to said CW uses in the future. The City shall also take such other action as the City deems necessary to remove or correct conditions that pose public safety hazards to CDA residents or that substantially undermine the quality of the residential environment.


12. If the City or Redevelopment Agency should consider modifying the terms of the City's zoning regulations or comprehensive plan or the Redevelopment Agency's Redevelopment Plan applicable to the CDA, the City or the Redevelopment Agency shall provide mailed notice and a copy of the proposed modification to Southern Legal Counsel, counsel for the Plaintiffs, at least thirty (30) days prior to the date of initial and final consideration of the proposed modification and provide notice of its intentions in conformity with Florida law.

V. MISCELLANEOUS

13. The Court shall retain jurisdiction for the enforcement of this Substitute Consent Decree.

14. Plaintiff's counsel shall not be entitled to any monitoring fees and expenses, including but not limited to attorney's fees, or other fees and expenses after February 10, 2005. However, should Plaintiffs seek enforcement of this decree or defend a motion to modify and/or terminate this decree, they shall not be barred from seeking prevailing party fees and expenses in accordance with applicable law.

APPROVED AND ORDERED in Orlando this 28th day of January, 2008.


PATRICIA C. FAWSETT
UNITED STATES DISTRICT JUDGE

Copies to:

All Counsel of Record