

January 26, 2025

First things first, "Mea Culpa, Mayor Leslie"

My apologies to our newly elected Mayor, Jason Leslie, for misspelling his last name in my [December 29, 2024](#) email blast. His last name is "Leslie" NOT "Lesley" as I had erroneously written. As soon as I was aware of my mistake, I emailed Mayor Leslie. Perhaps my mistake was Karma for pointing out the City's misspelling of Sam Snead's last name which is "Snead" NOT "Sneed."

Lawsuit Updates

Case #1

Circuit Court Case: 2024 13483 CICI

As mentioned in my [December](#) newsletter, the local circuit court Judge Dennis Craig is questioning his jurisdiction to hear the developer's **Petition for Writ of Certiorari**. This petition asks the court to review the City Commission's denial for rezone the golf course property to R-2. Any appeal must be filed within 30 days of the city's denial. The December newsletter explains why Judge Craig is asking if the developer missed their 30 day appeal window.

On December 18, 2024, Judge Craig gave the developer and the City up to 45 days to provide him Memorandums on jurisdiction, so I estimate those Memorandums are due by approximately Monday, February 3rd. I called the Clerk of Court to confirm that this suit is still an open case, and I was informed it is even though another lawsuit was filed in Federal court (see Case #2 below). (See the [December](#) newsletter for instructions on how to track the case and view documents)

Case #2

US (Federal) Court Case: 6:24-cv-02343-CEM-RMN

Shortly after sending my December newsletter, I found out the developer filed a [lawsuit](#) with the US District Court, Middle District of Florida, Orlando Division. This court is a Federal court and is higher than the Circuit court. The suit alleges an "unlawful taking of private property" by the City claiming the City has denied the developer their right to develop the land. The **Observer** wrote an article on this Federal lawsuit which you can read [here](#).

I discussed this Federal suit with land use attorney Brent Spain in early January, and he predicted the City would file a Motion to Dismiss. The City filed that [Motion](#) on 1/16/25. The court is reviewing the Motion, and the case is still open.

How can you stay up-to-date on Federal cases?

Unlike the Volusia County circuit court case records which anyone can view and download for free online, the federal cases require paid subscriptions for online access. There are two sites I am aware of:

1. **Pacer** <https://pacer.uscourts.gov/>
2. **Pacer Monitor** Provides free access (without creating an account) to view just the docket so you can see what has been filed. If you want to download any documents, you have to create an account and pay for documents. You can view the docket for free here:
https://www.pacermonitor.com/public/case/56297658/Triumph_Oaks_of_Ormond_Beach_I,_LLC_v_City_of_Ormond_Beach

Case #3

Pre-suit Notice of Claim for Relief

On January 3, 2025, the developer's attorney sent the Mayor a [letter and appraisal](#) which stated verbatim:

RE: PRE-SUIT NOTICE OF CLAIM FOR RELIEF PURSUANT TO
§70.0001, FLORIDA STATUTES BERT J. HARRIS PRIVATE PROPERTY
RIGHTS PROTECTION ACT

Unfortunately I was not able to find the statute cited (70.0001) but I did find Florida statute 70.001 which you can read [here](#). I guess an extra zero here or there isn't of much consequence unless the error regards money? Anyway, this Notice is required by law before filing any actual suit.

The claim in the Pre-Suit is similar to the claim in the Federal lawsuit, i.e., the City allegedly denied the developer any development rights, and the developer wants money. The developer's appraisal of the golf course property (required by statute 70.001) estimated a negative impact of \$14,850,000 on the property's value due to the City's denial of R-2 rezoning.

According to the developer's Pre-suit Notice, the City has 3 options:

1. Prepare a written settlement offer
2. Issue a written statement of allowable uses
3. Or agree to arbitration or mediation

Fortunately the City's legal counsel can review the statute and determine if the statute provides for more options than the ones listed by the developer's

attorney.

If the City and the Developer decide to arbitrate, which may be a private process, I remind the City of what I have stated numerous times regarding the 2006 PRD development order which retained the golf course green space in perpetuity while limiting development to 119 multifamily units and 3 single residential homes in the front and inner core of the property - - this development order set the Smart Growth precedent on the maximum allowable units (not lots) on the golf course property AND it retained the golf course green space in perpetuity.

City leaders - - Don't settle for more units than was approved in 2006 or forfeit the green space of any home that borders the golf course. A PRD buffer of 40 - 50 feet (14 - 17 yards) is not equivalent to the average width of a golf course's green which is 105 - 150 feet (35 - 50 yards). And in terms of density, multifamily units take up less land than single residential lots therefore leaving more green space. Obviously no one wants low-end multifamily units or homes as they might be purchased by large companies and rented out, potentially bringing down the property values in all of Tomoka Oaks. Therefore, we are counting on the City to protect the highest and best use of the Sam Snead Golf and Country Club property, which, in my opinion, is protected to remain primarily open green space as supported by express and implied restrictions.

HOA Annual Meeting

The Tomoka Oaks Annual HOA meeting is this Thursday, January 30, 2025 at 6:00 pm. ~~Location is The Performing Arts Center, 399 N. US 1 (intersection of US 1 and Wilmette Ave).~~ **Corrected location is:**

Ormond Beach Senior Center
351 Andrews St.
(directly behind the Ormond Beach Performing Arts Center)
January 30, 2025
6:00 PM

At this meeting we will hear reports from various committees, and one is the Golf Course Committee. Just a reminder that the HOA has retained attorney Dennis Bayer to assist with development mitigation efforts, i.e., lowest density, best zoning for the property, buffer requirements, etc. The attorney I retain is Brent Spain whose letter of opinion supports why no development should be allowed. We are fortunate to have two experienced land use attorneys providing legal counsel during this ever changing scenario.

Note to Self, City, and Developer

- Leslie not Lesley
- Snead not Sneed
- 70.001 not 70.0001

All Newsletters are available at
TomokaOaksHistory.com



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The Tomoka Oaks Times is an independent newsletter whose goal is to prevent residential development of the Tomoka Oaks Golf Course property. This newsletter is separate from the voluntary Tomoka Oaks HOA Golf Course Committee whose efforts are directed at mitigating development. It is our belief our development opposition is necessary to accurately and fairly represent Tomoka Oaks residents who desire no residential development.

Tomoka Oaks Times

Ormond Beach, FL 32174

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