

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT,
IN AND FOR ORANGE COUNTY, FLORIDA

CASE NO. 2011-CA-792-0
DIVISION: _____

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TOWN OF EATONVILLE, FLORIDA,
A political Subdivision of the State of Florida,

Plaintiff,

vs.

**CECIL ALLEN, CAROL MORRISON,
EDWIN WRIGHT, ANNIE T. RAY, RICHARD
HALL, JOHN BOLDEN AND JOYCE PHILLIPS
AS SUCCESSOR TRUSTEES of the Public
Charitable Trust and Property and Assets of the
Robert Hungerford Chapel Trust (formally the
Robert Hungerford Industrial School of
Eatonville, Orange County, Florida, and Orange County
School Board, Orange County, Florida, a body corporate
In the State of Florida.**

Defendants.

FILED IN OFFICE
CIVIL DIVISION
2011 JAN 19 PM 2:51
LYDIA GARDNER
CLERK CIRCUIT COURT
ORANGE CO FL

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**COMPLAINT FOR DECLARATORY JUDGMENT
AND OTHER RELIEF**

Comes Now, the Town of Eatonville, Florida, a political subdivision of the State of Florida, by and through its undersigned attorney, and brings this, its complaint for Declaratory Judgment and Other Relief against the Defendants, Cecil Allen, Carol Morrison, Edwin Wright, Annie T. Ray, Richard Hall, John Bolden and Joyce Phillips, as Successor Trustees of the Public Charitable Trust and Property and Assets of the Robert Hungerford Chapel Trust (formally the Robert Hungerford Industrial School of Eatonville, Orange County, Florida) and Orange County School Board, Orange County, Florida, a body corporate in the State of Florida, and alleges as follows:

1. Plaintiff is sui juris and a political subdivision of the State of Florida.

2. Defendants are sui juris and either reside or has its principal place of business in the County of Orange, State of Florida. Said persons were so appointed as Successor Trustees by order entered by the Probate Court, Ninth Judicial Circuit, Orange County, Florida.
3. The School Board of Orange County, Florida, is the owner in fee simple of the following described real property situated in Orange County, Florida, to wit:
See Exhibit "A".
4. The School Board of Orange County, Florida, acquired the fee simple title to said real property under and by virtue of that certain Trustees' Deed dated May 11, 1951, recorded in Deed Book 867, page 247, Public Records of Orange County, Florida.
5. The Plaintiff and The School Board of Orange County, Florida, entered into a Purchase and Sale Agreement for the real property herein above described.
6. The Defendants were the previous owners of the real property hereinabove described and it retains a beneficial interest in said real property.
7. The School Board of Orange County, Florida, has closed Hungerford Preparatory School that is situated on a portion of the real property hereinabove described. The remaining portion of said real property is best suited for commercial development more so than for another school. Based on information and beliefs, the School Board of Orange County, Florida would not oppose the release of the above restriction.

8. This Court, in the Chancery Case 23174, entered a Final Decree on May 9, 1951, imposed the following restriction upon the real property hereinabove described:

“That upon the conveyance of said real property to the Board of Public Instruction of Orange County, Florida, said real property be used as a site for the operation of a public school thereon for Negroes with emphasis on the vocational education of Negroes and to be known as “Robert Hungerford Industrial School and the personal property as conveyed to said Board shall be used in connection therewith”.

9. That the real property described in the Purchase and Sale Agreement hereinabove mentioned between the Plaintiff and The School Board of Orange County, Florida, has the restriction contained in paragraph 11 of the Court’s Final Decree entered on May 9, 1951.
10. A condition precedent to the Purchase and Sale Agreement requires the Plaintiff to obtain a release of this restriction mentioned hereinabove.
11. Plaintiff is in need of the relief requested to increase it’s ad valoren tax base and provide health and safety services to its citizens.

WHEREAS, Plaintiff requests that this court release and discharge the restriction mentioned herein.

Dated this Fifth day of January, 2011.

By: 

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Attorney for Plaintiff

EXHIBIT A

PARCEL 1:

The Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$, Section 02, Township 22 South, Range 29 East, Orange County, Florida,

LESS AND EXCEPT: The right of way for Wymore Road and vacated 30 feet for road right of way lying South thereof as per Certificate recorded in O.R. Book 4548, Page 4026, Public Records of Orange County, Florida.

ALSO LESS AND EXCEPT: Begin 349 feet North of Northwest corner of LAKE BELL SUBDIVISION, according to the map or plat thereof as recorded in Plat Book 34, Page 8, Public Records of Orange County, Florida, thence run North 73° West 88.29 feet; thence North 538.61 feet, thence East 83.92 feet, thence South 566.81 feet to the point of beginning.

ALSO LESS AND EXCEPT: Begin at the Northwest corner of LAKE BELL SUBDIVISION, according to the map or plat thereof as recorded in Plat Book 34, Page 8, Public Records of Orange County, Florida, thence run South 525.04 feet; thence West 332.24 feet; thence North 138.03 feet, thence East 198.46 feet, thence North 06° East 431.30 feet; thence North 85° East 75.68 feet to a point on the Northerly extension of the Westerly line of LAKE BELL SUBDIVISION, thence South 45.44 feet to the point of beginning.

PARCEL 2:

The East $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ and that strip of land lying Northerly of said Parcel and Southerly of Lucien Way of Section 34, Township 21 South, Range 29 East, Orange County, Florida.

LESS AND EXCEPT: The South 40 feet and portion platted.

PARCEL 3:

The West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ and the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 35, Township 21 South, Range 29 East, Orange County, Florida.

LESS AND EXCEPT: That portion lying West of Wymore Road.

ALSO LESS AND EXCEPT: The North 685 feet of the East 685 feet of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$.

ALSO LESS AND EXCEPT: Right of Way for Wymore Road.

ALSO LESS AND EXCEPT: Commence at the Southeast corner of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, thence West 24.9 feet, thence South 25 feet, thence continue South 660 feet for point of beginning, thence West 225 feet, thence South 205 feet, thence East 250.79 feet, thence North 179.91 feet, thence West 25 feet, thence North 25 feet to the point of beginning.

ALSO LESS AND EXCEPT: A portion of land lying in Section 35, Township 21 South, Range 29 East, Orange County, Florida, being more particularly described as follows:

Commence at the Southeast corner of the Northeast $\frac{1}{4}$ of said Section 35; thence run North $86^{\circ}30'54''$ West along the North line of said Southeast $\frac{1}{4}$ for a distance of 1259.36 feet to the POINT OF BEGINNING, also being a point on the Westerly right of way line of College Avenue, also being a point on a curve concave Southwesterly and having a radius of 25.00 feet; thence departing aforesaid North line and from a tangent bearing of South $68^{\circ}28'16''$ East, run Southerly along said curve and said Westerly right of way line, through a central angle of $67^{\circ}44'57''$ for an arc distance of 29.56 feet to a point of tangency, thence continuing along said Westerly right of way line, run South $00^{\circ}43'18''$ East for a distance of 201.75 feet; thence departing said Westerly right of way line run the following courses and distances; South $89^{\circ}16'15''$ West for a distance of 175.13 feet; thence run North $00^{\circ}43'45''$ West for a distance of 206.58 feet to a point on the Southerly right of way of Kennedy Boulevard according to Orange County Engineering Department Right of Way map for Kennedy Boulevard/Lake Avenue, Contract Number Y7-805A prepared by PEC Inc., dated 4/11/1989, also according to Official Records Book 286, Page 845; thence run South $86^{\circ}30'54''$ East along said Southerly right of way line for a distance of 89.48 feet; thence continuing along said Southerly right of way line run the following courses and distances: North $01^{\circ}33'08''$ East for a distance of 22.96 feet; thence run North $85^{\circ}34'51''$ East for a distance of 51.30 feet; thence run South $86^{\circ}30'54''$ East for a distance of 18.33 feet to aforesaid POINT OF BEGINNING.

ALSO LESS AND EXCEPT: All that part of the North 25 feet of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, lying West of the West right of way line of West Avenue.

ALSO LESS AND EXCEPT: Commence at the Southwest corner of the Southeast $\frac{1}{4}$ of Section 35, Township 21 South, Range 29 East, 410.75 feet, thence North $88^{\circ}53'38''$ East 5.03 feet to a non-tangent curve concave Southwesterly with a radius of 863 feet and a chord direction of North $16^{\circ}21'29''$ West with a delta of $13^{\circ}38'31''$ for a distance of 205.48 feet to the point of beginning, thence North $89^{\circ}48'25''$ East 281.14 feet, thence North $00^{\circ}11'35''$ West 556.92 feet, thence South $89^{\circ}48'25''$ West 577.83 feet to a non-tangent curve concave Northeasterly with a radius of 803 feet and a chord direction of South $25^{\circ}58'04''$ East with a delta of $28^{\circ}00'14''$ for a distance of 392.47 feet to a reverse curve concave Southwesterly with a radius of 863 feet and chord direction of South $31^{\circ}52'06''$ East with a delta of $16^{\circ}12'19''$ for a distance of 244.04 feet to the point of beginning.