

RESOLUTION NO. R-93-392

RESOLUTION OF THE BOARD OF COUNTY  
COMMISSIONERS OF PALM BEACH COUNTY,  
FLORIDA REVOKING THE DEVELOPMENT AGREEMENT  
FOR THE TOWN OF WELLINGTON DEVELOPMENT OF  
REGIONAL IMPACT (DRI)

WHEREAS, Florida Statutes, Sections 163.3220-163.3243 and Palm Beach County Ordinance No. 92-20 Article 12 authorize local governments to enter into development agreements with developers to assure and coordinate adequate public facilities to serve development; and

WHEREAS, on September 4, 1991, pursuant to Florida Statutes and Ordinance No. 92-20, the Board of County Commissioners entered into a Development Agreement regarding the Town of Wellington DRI (Agreement); and

WHEREAS, the parties to the Agreement were Corepoint Corporation and Albert Vadia, Jr., Trustee (Developer), Acme Improvement District (Acme), Palm Beach County (County), Solid Waste Authority (SWA), and MacArthur Davis trust and individuals (Owners); and

WHEREAS, Florida Statutes and Ordinance No. 92-20 require an annual review of the Agreement and a determination of compliance with the Agreement; and

WHEREAS, pursuant to the annual review, if the Planning Director makes a finding that there has been a failure to comply with the terms of the Agreement, it must be referred to the Board of County Commissioners to make a determination of whether the Developer has complied, in good faith, with the terms and conditions of the Agreement; and

WHEREAS, two (2) public hearings were conducted in accordance with procedural requirements of 163.3225; and

WHEREAS, if the Board of County Commissioners determines during the public hearings, on the basis of substantial competent evidence, that the Developer has not complied, in

good faith, with the terms of the Agreement, the Board of County Commissioners may modify or revoke the Agreement.

**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA** that the Development Agreement for the Town of Wellington DRI is hereby revoked and the Board of County Commissioners finds and determines as follows:

1. Two (2) public hearings were conducted during which neither the Developer nor the Owner of the property demonstrated good faith compliance with the terms of the Agreement.

2. Corepoint Corporation and Albert Vadia, Jr., Trustee no longer hold any interest in the development or the Development Agreement.

3. Although a subsequent developer had executed a contract to purchase the property it has abandoned its interest therein.

4. Acme has rescinded its participation in the Agreement.

5. There has been no performance under the Agreement. The following four (4) time certain conditions of the Agreement have not been met:

- (1) Section 5.4G (1) Acme Financial Responsibilities - Bond Validation and Sale
- (2) Section 5.4H(4) Developer Financial Responsibilities - \$1,000,000 Advance Payment
- (3) Section 6.2A Land Conveyed for District Park Purposes - Interlocal Agreement for Roles for Development and Operation of Park
- (4) Section 7.2A Fire Rescue site to be conveyed

As a result thereof there has been a material breach of the Agreement.

6. Acme did not incur any bond obligations under this Agreement. Therefore in accordance with Section 11.3D,

revocation will not impair any rights or obligations of Acme.

7. The termination of this Agreement will not adversely affect the Owners in that Section 9.1 of the Agreement states that the Owners joined in the Agreement "solely to permit it to be recorded in the public record" and were to be released from any obligation under the Agreement upon conveyance of the property to the Developer.

8. The Development Agreement for the Town of Wellington DRI is hereby revoked.

9. By revoking this Agreement, the concurrency reservation for the Development Order is hereby revoked and the Development Order shall no longer meet the concurrency requirements of the Palm Beach County Comprehensive Plan. The required public facilities to meet the impact of development will not be guaranteed or available at the time of development.

The foregoing resolution was offered by Commissioner Foster who moved its adoption. The motion was seconded by Commissioner Newell and upon being put to a vote, the vote was as follows:

MARY MCCARTY	Aye
KAREN T. MARCUS	Aye
CAROL A. ROBERTS	Aye
WARREN H. NEWELL	Aye
BURT AARONSON	Aye
KEN FOSTER	Aye
MAUDE FORD LEE	Absent

The Chair thereupon declared the resolution duly passed and adopted this 25th day of March, 1993.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, BY ITS BOARD OF COUNTY COMMISSIONERS

DOROTHY H. WILKEN, Clerk

By: *[Signature]*  
County Attorney

By: *[Signature]*  
Deputy Clerk

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