

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-61623-CIV-MARRA/SELTZER

BARRINGTON WILLIAMS, and
TONYA MOORER

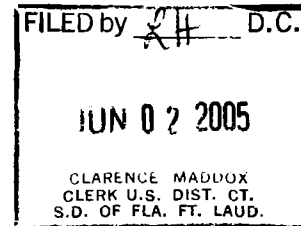
Plaintiffs

vs.

TOWN OF SOUTHWEST RANCHES,
FLORIDA; FLORIDA DEPARTMENT
OF COMMUNITY AFFAIRS, and
TOWN OF PEMBROKE PARK, FLORIDA

Defendants.

**CLOSED
CIVIL
CASE**



FINAL OPINION AND ORDER OF DISMISSAL

THIS CAUSE is before the Court upon Plaintiffs' Notice that Defendant Southwest Ranches Has Formally Withdrawn its Contract Offer to Pembroke Park Rendering Moot the Remedy Requested in This Action; and Request for Judgment for the Plaintiff [DE 40]. Defendant, Southwest Ranches, affirms that its Town Council has formally adopted a resolution withdrawing its offer to Pembroke Park and Pinnacle Group [DE 43 at n.1]. As the subject housing proposal has officially been abandoned, this case is moot.

Plaintiffs assert, "[b]ecause Southwest Ranches has already taken the action sought by the Plaintiffs in this action, the action is moot, and judgment should be entered for the Plaintiffs." DE 40 at 1-2. Plaintiffs offer no legal authority to support their request for judgment in their favor on grounds of mootness.

Dismissal of an action on the ground of "mootness" addresses only Article III's "case or controversy" requirement, and hence, this Court's subject matter jurisdiction. It does not in any

way address the ultimate merits of the case. As the Eleventh Circuit explains:

"The doctrine of mootness derives directly from the case-or-controversy limitation because an action that is moot cannot be characterized as an active case or controversy. A case is moot when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1335-36 (11th Cir. 2001) (*per curiam*) (citations and internal quotation marks omitted). Or, put another way, "a case is moot when it no longer presents a live controversy with respect to which the court can give meaningful relief. If events that occur subsequent to the filing of a lawsuit or an appeal deprive the court of the ability to give the plaintiff or appellant meaningful relief, then the case is moot and must be dismissed." *Id.* Indeed, because mootness is jurisdictional, dismissal is mandated. *Id.* "Any decision on the merits of a moot case or issue would be an impermissible advisory opinion." *Id.*

Florida Pub. Interest Research Group Citizen Lobby, Inc. v. E.P.A., 386 F.3d 1070, 1085-86 (11th Cir. 2004); *see also National Advertising Co. v. City of Miami*, 402 F.3d 1329, 1332 (11th Cir. 2005) ("By its very nature, a moot suit cannot present an Article III case or controversy and the federal courts lack subject matter jurisdiction to entertain it. . . . If a lawsuit is mooted by subsequent developments, any decision a federal court might render on the merits of a case would constitute an advisory opinion"); *Coral Springs St. Sys., Inc. v. City of Sunrise*, 371 F.3d 1320, 1328 (11th Cir. 2004) (same).

To enter a judgment in favor of Plaintiffs would be tantamount to concluding that they are prevailing parties on the merits of the case. The United States Supreme Court has recognized, however, that a prevailing party is required to secure either a judgment on the merits or a court-ordered consent decree. *See Buckhannon Bd. & Care Home v. West Virginia Dep't of Health & Human Resources*, 532 U.S. 598, 605 (2001). A plaintiff is not a prevailing party simply because the lawsuit brought about the desired result through a voluntary change in defendant's conduct. *Id.* Thus, contrary to Plaintiffs' assertion, the dismissal of this lawsuit on grounds of mootness is purely jurisdictional, and is not tantamount to a ruling on the merits in

Plaintiffs' favor. Under these circumstances, Plaintiffs are not entitled to a judgment in their favor. *Al Najjar*, 273 F.3d at 1336. Accordingly, it is hereby

ORDERED AND ADJUDGED that Request for Judgment for the Plaintiff [DE 40] is **DENIED**. This case is dismissed for lack of subject matter jurisdiction.

THIS CASE IS CLOSED. Any pending motions not ruled upon are denied as moot.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this

2 day of June, 2005.



KENNETH A. MARRA
United States District Judge

copies to:

All counsel of record