

# **CARILLON COMMUNITY RESIDENTIAL ASSOCIATION, INC.**

## **Status Update Regarding NorthView Litigation – November 2010**

As many of you are aware, the Association filed two lawsuits in February 2009 to challenge the County's approval of the 4-story, 600-bed student housing complex proposed to be located at the entrance of the Carillon community. The following is a brief update regarding the status of such litigation.

### **Certiorari Proceeding**

The Association's first lawsuit involves what is known as a "petition for writ of certiorari," which is basically an appeal, and asserted that the County Commission violated the Association's procedural due process rights in approving the student housing project. On July 2, 2010, the Fifth District Court of Appeal in Daytona Beach issued its decision in the certiorari case, concluding that the Association's due process rights were not violated by the County Commission's failure to allow the Association an opportunity to cross-examine the developers' witnesses during the public hearing on the student housing project.

On November 3, 2010, the Association filed a "Notice to Invoke Discretionary Jurisdiction," requesting the Florida Supreme Court to hear the case. The following groups from all around Florida have informed the Florida Supreme Court that they support the Association's position:

1. 1000 Friends of Florida, Inc.;
2. Florida Wildlife Federation, Inc.;
3. Florida Audubon Society, Inc.;
4. American Planning Association-Florida Chapter;
5. Putnam County Environmental Council, Inc.;
6. Putnam Citizens Alliance, Inc.;
7. Sorrento Ranches Homeowners Association, Inc.;
8. Sarasota County Council of Neighborhood Associations, Inc.;
9. Robert Lincoln, Esquire; and
10. Citizens for a Scenic Florida, Inc.

It is anticipated that additional groups may file notices in support of the Association's request in light of the substantial adverse impact the Fifth District's ruling will have on the ability of adjacent landowners to protect their property rights.

It will likely take the Florida Supreme Court several months to decide whether it will hear our case. If the Florida Supreme Court agrees to hear our case, it could take upwards of 9 to 12 months for the Court to issue a final ruling.

### **Declaratory Judgment Proceeding**

The Association's second lawsuit involves a complaint for declaratory judgment and injunctive relief, and asserts that the County Commission's approval of the proposed student housing project violates the County's Comprehensive Plan and UCF's Master Plan. On October 8, 2009, the circuit court denied the County's motion to dismiss this lawsuit.

The matter is currently scheduled for a one-week trial to start on June 27, 2011. A final ruling by the trial court in this case is not expected until July 2011 or later.

### **Conclusion**

The Board will continue to attempt to fulfill the desire of the Association's Members to protect our neighborhood from the adverse impacts of a 4-story, 600-bed student housing complex at the entrance to Carillon. For complete and accurate information regarding the Association's legal challenges to the student housing project, we encourage you to visit the Association's website for ongoing status updates and copies of the court filings.