

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 12-CV-80215-Dimitrouleas/Snow

CARON FOUNDATION OF
FLORIDA, INC.,

Plaintiff,

v.

CITY OF DELRAY BEACH,
Defendant.

SETTLEMENT AGREEMENT AND CONSENT ORDER

1. Caron will pay the City, on an annual basis on or before March 31 of each year, an amount equal to the real estate taxes for the previous year as set forth by the Palm Beach County Property Appraiser, less the amount of school taxes, neither of which it is obligated to pay, for the first and second Ocean Drive Program residences referred to in Caron's amended complaint ("first Ocean Drive Program residence" and "second Ocean Drive Program residence," respectively). Consistent with its mission as a not-for-profit foundation, Caron, on an annual basis, will provide substance abuse training and education to schools, churches or other charitable institutions within the City with a value in an amount equal to or greater than the annual school taxes set forth by the Palm Beach County Property Appraiser. Caron agrees to coordinate such educational efforts with the City's educational coordinator. These obligations and the reasonable accommodations as set forth in Paragraph 6 below as to each residence will cease if and when Caron sells, leases or no longer uses the residences for its patients in recovery.
2. Caron and any of its affiliates agree not to own more than two houses within the City. If Caron decides to sell its second Ocean Drive Program residence and purchase a new Ocean Drive Program residence, it can transfer the reasonable accommodation that is being granted by the City to Caron for the second Ocean Drive Program residence to the new residence on a one-time basis if the replacement property is of comparable size (square footage and amount of rooms). Its obligations under paragraph 1 shall extend to any new second residence.
3. Caron as a substance abuse treatment provider shall not be required to disclose the addresses of its patients' community housing, absent an appropriate court order.
4. There will not be more than four vehicles in the driveway of either residence for more than 12 hours continuously. Any Caron-owned vehicles that park at either residence will be unmarked.
5. Any decision on Caron's pending request to the City for a reasonable accommodation for the second Ocean Drive Program residence as well as Caron's request for a reasonable

accommodation from the City's Landlord-Tenant Ordinance shall be stayed until the City Commission approves this settlement and it is approved by the Court.

6. The City will grant Caron's request for reasonable accommodation dated December 19, 2011, as supplemented and amended, subject to a limitation up to six residents (preferably female residents, to the extent operationally feasible, clinically indicated and not prohibited by law) at the second Ocean Drive Program residence. Further, the reasonable accommodation dated February 14, 2011 as to the first Ocean Drive Program residence will be amended to allow up to eight residents.

7. As to transient use reporting, Caron will voluntarily report on an annual basis by October 31 of each year, by declaration or affidavit, the number of turnovers of residents at the first and second Ocean Drive Program residences. Caron agrees to comply with the City Ordinance 29-09, and agrees that none of its resident slots at either the first or second Ocean Drive Program residences will turnover more than 6 times a year.

8. As to any code enforcement issues, and prior to the commencement of any formal code enforcement proceedings, the City shall notify Caron of any credible code enforcement issue or question, and Caron will respond, orally or in writing, within 5 business days upon written notice sent by email and/or certified mail, return receipt requested, to Caron's designated counsel, (currently Michael Weiner, Esq.). Caron's response, if in writing, shall be furnished by email and mail to code enforcement personnel who initiated the notice with a copy to the City Attorney.

9. In the event of an emergency (in which the City has determined that existing or imminent danger exists to people or property at the first and second Ocean Drive Programs residences), the City may immediately make all reasonable actions necessary to ameliorate such emergency, and the City will thereafter promptly serve written notice to Caron of the emergency, all actions taken by the City and the reasons that such actions were reasonable and necessary.

10. This Settlement Agreement and Consent Order shall be binding on Caron, its agents, employees, etc., and the City and its agents, employees, etc.

11. If there is a dispute between the parties over the terms of, or compliance with, this Settlement Agreement and Consent Order, or over any code enforcement issue not resolved by Caron's response pursuant to paragraph 8, the parties shall exhaust the following notice and cure procedure before seeking any judicial or administrative remedies: The party claiming non-compliance ("complaining party") shall provide written notice by email and U.S. Mail to the other party ("responding party") to the individuals specified in paragraph 8, whereupon the responding party shall provide a written response by email and U.S. Mail within 10 business days from receipt of the notice. If the responding party's written response disputes the alleged non-compliance, or does not offer to cure the non-compliance, the complaining party, before seeking judicial or administrative relief, shall first demand a face-to-face meeting with the responding party to attempt to resolve the non-compliance. The face-to-face meeting shall occur within 10 business days from service of the demand, unless extended by agreement of the parties. In the event that the parties do not resolve the alleged non-compliance, the parties may

seek any and all relief from the Court. Nothing in this agreement or otherwise shall limit the nature of the relief sought by the parties for a breach of the obligations contained in this agreement.

12. The Court will retain jurisdiction to enforce the terms of the instant agreement.

13. No waiver or modification of this agreement, or any covenant, condition or limitation herein shall be valid unless in writing and duly executed by both Caron and the City (after approval by the City Commission).

14. Caron will dismiss all current lawsuits with prejudice including the instant lawsuit, the previous lawsuit between Caron and the City, the Linton lawsuit and any and all administrative and HUD complaints by Caron against the City, including, but not limited to: (1) U.S. District Court Case No.: 12-cv-80215; (2) U.S. District Court Case No.: 05-cv-80329; (3) Palm Beach County Circuit Court Case No.: 50 2012 CA 002964; (4) Fourth District Court of Appeal Case No.: 4D12-1345; and (5) HUD Case No.: 04-12-0803-8.

15. Upon the approval of this agreement and Consent Order by the Court, the parties will waive all claims for damages, attorney's fees and costs against each other incurred up through and including the date that this Settlement Agreement and Consent Order is approved by the Court. The parties reserve their right to seek damages, attorney's fees and costs incurred after the date the Settlement Agreement and Consent Order is approved by the Court for any breach of any provision in the agreement.

16. The City will dismiss its appeal from the preliminary injunction issued by United States Judge William P. Dimitrouleas on May 4, 2012, and that preliminary injunction will be made permanent.

Dated this ____, day of July, 2012

Caron Foundation of Florida, Inc.

City of Delray Beach

This Settlement Agreement and Consent Order are hereby approved, and the Court retains jurisdiction to enforce same.

SO ORDERED this ____ day of July, 2012.

WILLIAM P. DIMITROULEAS
United States District Court Judge