

**IN THE CIRCUIT COURT OF THE 16<sup>TH</sup> JUDICIAL CIRCUIT  
IN AND FOR MONROE COUNTY, FLORIDA**

GENEVA SUTTON,  
Plaintiff,

vs.

Case Number 07-CA-316-P

MONROE COUNTY, FLORIDA,  
Defendant.

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**ORDER ON MONROE COUNTY'S MOTION TO DISMISS**

**THIS CAUSE** came before the court on November 9, 2007, upon the defendant, Monroe County's, Motion to Dismiss. The court, having heard argument of counsel, reviewing pertinent case law, and being otherwise fully advised in the premises finds:

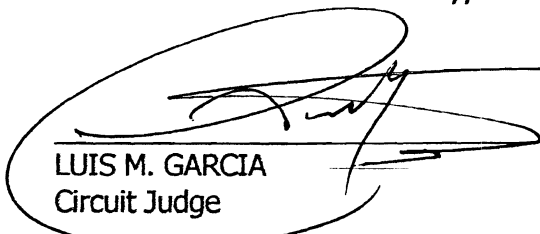
1. The plaintiff, a landowner of approximately five acres in Monroe County, filed the instant action seeking just compensation from the defendant, Monroe County, for a temporary and/or permanent taking of the property.
2. The court now entertains Monroe County's Motion to Dismiss the complaint as being barred by the statute of limitations. The court agrees and grants the defendant's Motion to Dismiss.
3. The plaintiff, Geneva Sutton, has owned the subject property since 1971. At the time, the property was zoned as General Use. After the September 1986 Land Use Plan was entered, the property was zoned Native and Sparsely settled. For eight years, the plaintiff actively sought permission to build on the property. The plaintiff's last unsuccessful attempt to obtain a building permit from Monroe County was in 1997. For nine years it appears the plaintiff took no further action. In 2006, the plaintiff attempted to revive her claim by invoking the Monroe County's beneficial use process. The Special Master's recommendation was for the County to justly compensate the plaintiff for the taking of her property by Monroe County.

4. On November 15, 2006, the Board of County Commissioners of Monroe County approved the Special Master's recommendation and shortly thereafter, made the plaintiff a purchase offer. In May of 2007, the plaintiff filed the instant case seeking just compensation for the taking of private property for public use.

5. The statute of limitations for a "taking case" is four years. See *Hillsborough County v. Kensett*, 107 Fla. 237 (Fla. 1932). The taking of the plaintiff property commenced in 1997 when the County's decision became final. From that point forward, the plaintiff lost the right to develop her property. The plaintiff window of opportunity to file suit closed four years later in 2001. See *City of Pompano Beach v. Yardarm Restaurant, Inc.*, 640 So.2d 1377 (4<sup>th</sup> DCA 1994). Therefore,

It is **ORDERED AND ADJUDGED** that the defendant's, Monroe County's, Motion to Dismiss is **GRANTED**.

**DONE AND ORDERED** this 6<sup>th</sup> day of December 2007 at Plantation Key, Monroe County, Florida.



LUIS M. GARCIA  
Circuit Judge

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