

COMMISSION AGENDA:

5.21.13 #120.

TO: The Honorable Chairman and Members of the
Board of County Commissioners

FROM: James L. Bennett, County Attorney *JLB*

SUBJECT: Notice of New Lawsuit and Defense of the Same by the County Attorney
in the Case of Florida Gulf Coast Center for Fishing Foundation, Inc., a
Florida Corporation, v. Pinellas County, a Subdivision of the State of
Florida
Circuit Civil Case No. 13-3905CI-007

DATE: May 21, 2013

NOTICE: THIS IS TO ADVISE THE BOARD OF COUNTY COMMISSIONERS THAT THE ABOVE-REFERENCED LAWSUIT WAS FILED AGAINST THE COUNTY AND THE COUNTY ATTORNEY'S OFFICE WILL DEFEND THE SAME.

DISCUSSION: Plaintiff's, Florida Gulf Coast Center for Fishing Foundation, Inc., Complaint is an action for rescission and, alternatively, breach of contract stemming from a Lease Agreement entered into between the parties on January 11, 2012, for property located at 12211 Walsingham Road, Largo, Florida. The Plaintiff alleges Pinellas County had no intention of performing its duties pursuant to the Lease Agreement and, alternatively, Pinellas County is allegedly in breach of contract based on its alleged failure to perform pursuant to the Lease Agreement. This suit was initiated by the Plaintiff after the Board granted authority for the County Attorney to initiate legal action against Florida Gulf Coast Center for Fishing Foundation, Inc.

A copy of the Complaint (without attachments) is attached hereto.

JLB:NSM:elb

Attachment

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IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA

Florida Gulf Coast Center for
Fishing Foundation, Inc., a
Florida corporation,

Plaintiff,

CASE NO.: 13-3905CI-007

vs.

Pinellas County, a political
subdivision of the State of Florida,

Defendant.

_____ /

COMPLAINT

The Plaintiff, Florida Gulf Coast Center for Fishing Foundation, Inc., ("FGCC"), a Florida corporation, by and through its undersigned counsel, sues the Defendant, Pinellas County, a political subdivision of State of Florida, and states:

GENERAL ALLEGATIONS

1. FGCC is a Florida corporation doing business in Pinellas County, Florida.
2. Pinellas County is a political subdivision located in Pinellas County, Florida.
3. The property that is the subject of this action is located in Pinellas County.
4. Venue is proper in Pinellas County.
5. On or about January 11, 2012, FGCC and Pinellas County entered into a lease agreement for property located at 12211 Walsingham Road, Largo, Florida ("Lease"). A copy of the Lease is attached as Exhibit 1 and incorporated as if fully set forth herein.

6. All conditions precedent to the maintenance of this action have occurred, have been performed, or have been waived.

COUNT I

7. This is an action for rescission against Pinellas County.

8. FGCC realleges the General Allegations above.

9. Pinellas County had no intention to perform when it entered into the Lease with FGCC.

10. FGCC invested substantial sums into the leased premises in reliance on Pinellas County's representations that the entire property was tenable.

11. FGCC hereby rescinds the Lease and offers to return the leased premises to Pinellas County.

12. FGCC has no adequate remedy at law.

WHEREFORE, FGCC requests this Court enter judgment against Pinellas County for damages, interest, court costs, and such other relief as the Court deems appropriate.

COUNT II

13. FGCC incorporates the General Allegations herein.

14. This is an alternative claim for breach of contract against Pinellas County for damages in excess of \$15,000.

15. Paragraph 5 of the Lease states that "TENANT shall be granted continued possession of Premises immediately upon the Commencement Date of this Lease and shall be entitled to full use of said Premises."

16. Paragraph 8 of the Lease states that "COUNTY shall provide and pay for exterior monthly pest control."

17. Paragraph 8 of the Lease also states that "COUNTY shall maintain roof, structural load-bearing walls and slab of said Premises."

18. Paragraph 8 of the Lease further states that "COUNTY shall be responsible for the upkeep, maintenance, repair, replacement, and management of the Premises building infrastructure, including the following:...HVAC systems,...mowing/landscaping..."

19. Paragraph 8 of the Lease further states that "COUNTY will ensure that all life safety code requirements are met and maintained..."

20. Paragraph 21 of the Lease requires that Pinellas County provide that FGCC "shall and may peaceably and quietly have, hold, and enjoy the Premises hereby demised for the term aforesaid."

21. Paragraph 31 of the Lease states that "COUNTY grants to TENANTS and its employees, agents, customers, invitees and licensees exclusive right to forty-eight (48) spaces designated by COUNTY as parking for the building,..."

22. Pinellas County breached the Lease by (including, but not limited to):

- a. Failing to deliver tenable premises;
- b. Failing to grant continued possession of full use of premises;
- c. Failing to provide and pay for exterior monthly pest control;
- d. Failing to maintain the roof, structural load-bearing walls and slab on said premises;
- e. Failing to maintain, repair or replace the HVAC systems;

- f. Failing to properly maintain mowing/landscaping;
- g. Failing to ensure that all life safety code requirements are met and maintained;
- h. Requiring insurance above the amount required in the Lease;
- i. Failing to designate 48 exclusive parking spaces; and
- j. Failing to provide quiet enjoyment of the property.

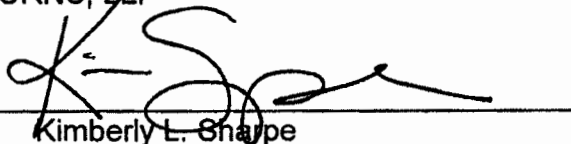
23. FGCC has been damaged as a proximate result of Pinellas County's breach.

24. FGCC is entitled to attorneys fees pursuant to paragraph 15 of the Lease.

WHEREFORE, FGCC requests this Court enter judgment against Pinellas County for damages, together with an award of attorneys' fees and court costs, and such other relief as the Court deems appropriate.

JOHNSON, POPE, BOKOR, RUPPEL &
BURNS, LLP

By: _____



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