

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Raul Aguila, City Attorney *CMR
for
RJA*

DATE: July 29, 2020

SUBJECT: **City Attorney's Status Report**

LAWSUITS FILED BY OR AGAINST THE CITY OF MIAMI BEACH SINCE THE LAST REPORT:

1. **MANUEL MENENDEZ AS PERSONAL REPRESENTATIVE OF THE ESTATE OF RAUL MENENDEZ, DECEASED V. TM YACHTING CHARTER, LLC, A FLORIDA LIMITED LIABILITY COMPANY; LAURENT MARC-ANTOINE JEAN MAUBERT-CAYLA MAURICIO ALVAREZ; MIAMI DADE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AND THE CITY OF MIAMI BEACH, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA** Case No. 20-CA-006437 (Circuit Court of the 11th Judicial Circuit, in and for Miami-Dade County, Florida)

The City was served with this amended complaint on June 23, 2020 alleging that on April 1, 2018, the plaintiff, The City of Miami Beach, who are the owners of Monument Island allowed the co-defendants to beach a large Yacht on Monument Island which created a condition wherein the Captain of the Miami Vice Yacht, Mauricio Alvarez, negligently attempted to back the 91-foot Miami Vice Yacht off the Island when unbeknownst to him the decedent, Raul Menendez, was still in the water resulting in the propeller of the Miami Vice slicing decedent, Raul Menendez, culminating in his death. The Plaintiff is suing the City for negligence in allowing large vessels such as the one at issue in this case to beach on Monument Island which would result in the use of reverse at high power to get the boat off the beach creating the dangerous condition that resulted in the tragedy alleged in the complaint. The City will timely answer the amended complaint and propound discovery to the Plaintiff.

2. **ADRIANA MORALES V. CITY OF MIAMI BEACH** Case No. 2019-029085-CA-01 (Circuit Court of the 11th Judicial Circuit, in and for Miami -Dade County, Florida)

The City was served with this complaint on July 8, 2020 alleging that on May 6, 2018, the plaintiff, Adriana Morales, while walking at the sidewalk located at 1874 West Avenue, Miami Beach, FL 33139, tripped and fell due to a sudden decline in the ramp resulting her falling and injuring herself. Plaintiff is alleging that the City of Miami Beach did not properly maintain the sidewalk at issue resulting in the fall and injury. The City will timely answer the complaint and propound discovery to the plaintiff.

3. **RAFAEL E. ANDRADE V CITY OF MIAMI BEACH** Case No. 2020-010156-CA-01 CA23 (Circuit Court of the 11th Judicial Circuit, in and for Miami-Dade County, Florida)

On May 14, 2020, the Plaintiff served the above-subject lawsuit, which seeks a Writ of Mandamus to enforce the Public Records Law, upon the City of Miami Beach (the "City"). More specifically, the lawsuit alleges that the City violated Article I, Section 24(a) of the Florida Constitution, and Chapter 119 of the Florida Statutes, by improperly withholding public records (e-mail exchanges between the City's Inspector General and the Miami-Dade County State Attorney's Office) from Plaintiff based upon an inappropriately claimed exemption to the Florida Public Records Act.

The City filed its Response to the Writ of Mandamus on May 22, 2020, in which the City asserted the applicability of the statutory provision identified within §119.0713(2)(b) of the Florida Statutes, which provides that information received, produced, or derived from an investigation of the Inspector General is confidential and exempt from Article I, Section 24(a) of the Florida Constitution, and Chapter 119 of the Florida Statutes, until the investigation is complete or no longer active.

As ordered by the Circuit Court, the Court heard oral argument from the parties regarding this litigation on May 28, 2020. After reviewing the pertinent filings, argument of counsel and having conducted an in-camera inspection of the public records at issue, the Court ruled, on June 26, 2020, that the Plaintiff's Petition for Writ of Mandamus was denied, and that the City's assertion of Florida Statute §119.0713(2)(b) Fla. Stat. was proper. In its Order, the Circuit Court further specified that, pursuant to Florida Statute §119.0713(2)(b), the e-mail exchanges are confidential and exempt until the investigation becomes final or is no longer active.

Accordingly, this lawsuit is now concluded, unless the Plaintiff appeals the Circuit Court's ruling to the Third District Court of Appeal. At this juncture, it is unknown if the Plaintiff will choose to do so, however, the City of Miami Beach, by and through the City Attorney's Office, will continue to take the appropriate legal action to defend its lawful position that the statutory confidentiality and exemption provision for investigations of the Inspector General was properly set forth.

4. **JARED MCGRUFF, OCTAVIA YEARWOOD, AND RODNEY JACKSON V. CITY OF MIAMI BEACH; DAN GELBER; AND JIMMY MORALES** United States District Court for the Southern District of Florida, Civil Action No. 1:20-cv-22583-XXXX,

The City, Mayor, and City Manager were sued by the American Civil Liberties Union representing contractors hired by the City and an artist in a First Amendment claim arising out of the City's alleged refusal to display a piece of the artist's work at a City-sponsored event during Memorial Day Weekend in 2019. The City

Attorney's Office will vigorously defend this lawsuit for all three defendants.

5. **RICHARD ALHADEFF AND MEME ALHADEFF, individually v. JOHN SABTY, individually, ABSOLUTE DEMOLITION, INC. a Florida Corporation, and the CITY OF MIAMI BEACH, a Political Subdivision of the State of Florida** Case No. 2020-013798-CA-01 (Circuit Court of the 11th Judicial Circuit, in and for Miami-Dade County, Florida)

This is an action for injunctive relief in connection with a boundary dispute between neighbor in connection with the demolition of the real property located at 727 North Shore, Miami Beach, FL. The Summons and Complaint were served on the City on July 6, 2020. Plaintiff disputes the validity of the survey submitted by the Defendants. The City of Miami Beach is named as a nominal party.

The initial hearing, scheduled for July 9, 2020, was cancelled by the Plaintiff.

The City will timely file its response to the Complaint.

6. **HARVEY RUVIN, as Clerk of the Circuit and County Courts for Miami-Dade County, Florida v. CITY OF MIAMI BEACH; SOUTH SHORE CONDOMINIUM VENTURE, LLC, a Florida Limited Liability Company, and all unknown parties claiming by, through, under or against Defendant(s), whether living or not an whether said unknown parties claim as heirs, devisees, grantees, assignees, lienors, creditors, trustee or in any other capacity claiming by, through, under or against the above-named Defendant(s)** Case No. 2020-013515-CA-01

This is an action for interpleader to ascertain the priority of claims on real property located at 20 S Shore Dr. Unit #3, Miami Beach. The Summons and Complaint were served on the City on July 2, 2020.

The City's Answer will be timely filed.