


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 
DATE: July 2, 2018
SUBJECT: **City Attorney's Status Report**

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

1. **Deutsche Bank Trust Company Americas, etc., vs Spring One LLC, et al.,** Case No. 18-013347 CA 10 (Circuit Court – 11th Judicial Circuit in and for Miami Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 7965 Crespi Blvd., Miami Beach, FL. The Summons and Verified Complaint were served on the City on May 10, 2018.

The City's Answer and Affirmative Defense was filed on May 14, 2018.

2. **Claudio Castillo v. City of Miami Beach, a municipal corporation and Adaymis Ortiz, individually** Case No. 18-008226-CA-01 (Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County)

The City was served with this complaint on June 7, 2018, alleging that the City's police department received a call for assistance on September 1, 2014, and in response to the call, City police officers including co-defendant officer, Adaymis Ortiz, responded to the call location at approximately 300 Lincoln Road, Miami Beach FL 33139. When the officers got to the location, Plaintiff, Claudio Castillo, was involved in a verbal altercation that evolved into a physical altercation with other individuals at the location. After Plaintiff Castillo backed away from the others he was involved in the altercation with, he raised both of his hands in the air with his palms facing the officers. At that point the Plaintiff alleges that he was not posing a physical threat to the officers. He was given several verbal commands by the officers which he complied with. Apparently as a result of perceived non-compliance by the Plaintiff, officer Ortiz tased the Plaintiff resulting in the Plaintiff going down to the ground striking his head on the pavement and suffering injuries to his head requiring attention from Fire Rescue and transportation to Mount Sinai ER.

Plaintiff Castillo was arrested for aggravated battery and battery, which were later nolle prossed (dropped) by the State Attorney's Office. Plaintiff Castillo is now suing the City and officer Ortiz individually, for Battery, violation of 42 USC 1983 and for false arrest.

Plaintiff has pled in the alternative against officer Ortiz that the officer was acting maliciously and outside the course and scope of employment. We shall file our answer to the complaint and propound discovery to the Plaintiff.

3. **Bank of New York Mellon, etc. vs. Jimmy Mitchell, et al.** Case No. 16-31261 CA 20 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1701 Michigan Avenue, Miami Beach, FL. The Summons and Verified Complaint were served on the City on June 14, 2018.

The City's Answer and Affirmative Defense was filed on June 19, 2018.

4. **Bath Club Entertainment, etc., vs The Residences at the Bath Club Condominium, etc. et al.**, Case No. 18-20081 CA 10 (Circuit Court – 11th Judicial Circuit in and for Miami Dade County, Florida)

This is an action in equity in which the Plaintiff, among other things, is requesting the Court to issue an immediate injunction (a) enjoining The Residences at The Bath Club Maintenance Association, Inc. from claiming ownership of a certain portion of The Bath Club property located at 5937 Collins Avenue, (b) enjoining the City of Miami Beach from revoking the Bath Club's BTR for its beach from concessions; and (c) requiring the Property Appraiser to reinstate the Bath Club Entertainments as the property owner of the subject parcel. The Summons and Emergency Complaint for Temporary and/or Permanent Injunction and for Enforcement of Arbitration Award were served on the City on June 25, 2018.

The City's Answer and Affirmative Defense will be timely filed.

5. **Ytech-180 Units Miami Beach Investment, LLC v. City of Miami Beach**, Case No: 2018-000184 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County Florida, Appellate Division)

On May 16, 2018, the Mayor and City Commission enacted Ordinance 2018-4198. The Petitioner has appealed the legislative decision of the City Commission to have the Tatum Waterway join the North Shore Historic District.

The City will be preparing its responsive brief.

6. **Ytech-180 Units Miami Beach Investment, LLC v. City of Miami Beach**, FLUEDRA claim.

On June 25, 2018, Ytech filed a request for relief under Section 70.51, Florida Statutes, the "Florida Land Use and Environmental Dispute Resolution Act", requesting relief from the designation of Tatum Waterway into the North Shore Historic District. This statute provides for an alternative dispute resolution process, and appears to attempt to travel jointly with Paragraph 4, above.

The City will be preparing its response to the claim.