

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: Rafael A. Paz, Acting City Attorney

DATE: January 13, 2021

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

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

1. **CHRISTIAN CONTI V. CITY OF MIAMI BEACH, FLORIDA, DAN GELBER, MICKY STEINBERG, MARK SAMUELIAN, MICHAEL GONGORA, STEVEN MEINER, RICKY ARRIOLA, AND DAVID RICHARDSON** Case No. 2020-024684-CA-01 (Circuit Court of the 11th Circuit in and for Miami-Dade County, Florida)

Christian Conti (the "Plaintiff") initiated a proposed class action lawsuit against the City of Miami Beach and each individual member of the City Commission on November 16, 2020. The City was served with this proposed class action Complaint on December 15, 2020, in which the Plaintiff has alleged that the City of Miami Beach has essentially violated his basic civil rights pursuant to those constitutional protected provisions set forth in the Florida Constitution. Specifically, the Plaintiff is alleging that the City's prohibition of transient rentals, as identified within Sections 142-905(b)(5) and 1111(a)(1) of the Miami Beach Code of Laws and Ordinances, has negatively impacted the value of his properties based upon the perception that such a prohibition treats similar situated properties differently in violation of the equal protection provisions of the Florida Constitution. Equally important, the Plaintiff has asserted in the Complaint that the City's previously adopted monetary fines for those individuals that violated the transient rental ordinances was an excessive punishment under Article I, Section 17 of the Florida Constitution.

The Plaintiff has asserted that these two (2) Ordinances inordinately burdens and restricts the use and enjoyment of his (and others) private property rights, and that such limitations amount to a constitutional taking under the Florida Constitution or the United States Constitution pursuant to Section 70.001 of the Florida Statutes.

The City will be seeking to dismiss the proposed class action Complaint, and will be defending any portion that would survive dismissal motion of this matter.

2. **ISAAC A. EDOUARD V. CITY OF MIAMI BEACH**, CASE # 20-018109 CA 31
(Circuit Court – 11th Judicial Circuit in and for Miami Dade County).

The City was served with this complaint on December 16, 2020, alleging that on August 16, 2016, Isaac A. Edouard, (the “Plaintiff”) was falsely arrested by three police officers while Plaintiff was merely reading his Bible outside the Miami Beach Regional Library. The Complaint indicates that the police officers accused Plaintiff of “trespass after warning” based on a contention that he was given a trespass warning at a separate location, Lincoln Road Mall, approximately one month earlier.

We shall file our answer to the Complaint and propound discovery to the Plaintiff.

3. **MARIA C. DESME V. CITY OF MIAMI BEACH AND MIAMI-DADE COUNTY**, CASE # 20-026666 CA 01 (Circuit Court – 11th Judicial Circuit in and for Miami Dade County).

The City was served with this complaint on January 4, 2021, alleging that on March 28, 2018, Maria C. Desme, (the “Plaintiff”) while walking on a walkway located at the entrance to the beach from 73rd Street in Miami Beach slipped and fell. The Plaintiff alleged that she injured herself due to the City’s negligent actions in maintaining the walkway because it allowed sand to accumulate and cover the wooden planks, which caused Plaintiff to fall and become injured.

The Plaintiff has named Miami-Dade County in the lawsuit with the City. We shall file our answers and propound discovery to the Plaintiff.