

**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT,  
IN AND FOR FLAGLER COUNTY, FLORIDA**

FLAGLER COUNTY — PALM COAST  
HOMEBUILDERS ASSOCIATION, INC., a Florida not-  
for-profit corporation; INTRACOASTAL  
CONSTRUCTION, LLC, a Florida limited liability  
company; INTEGRITY HOMES USA, LLC, a Florida  
limited liability company; THOMAS CONSULTING  
AND CONSTRUCTION, LLC, a Florida limited liability  
company; 1621 BUILDING AND REMODELING,  
LLC, a Florida limited liability company; FLORIDA  
GREEN BUILDING CONSTRUCTION, INC., a Florida  
corporation; and WILLIAM R. BARRICK, an individual,

Case No.: 2025-CA-621  
Division: 49

Plaintiffs,

vs.

CITY OF PALM COAST, a Florida Municipal  
Corporation,

Defendant.

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**DEFENDANT’S EMERGENCY MOTION TO CONTINUE HEARING ON  
PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT AND AMENDED MOTION  
FOR TEMPORARY INJUNCTION**

Defendant, the City of Palm Coast, by and through undersigned counsel, hereby moves this Court for entry of an Order continuing the hearing currently set on Plaintiff’s Motion for Summary Judgment and Amended Motion for Temporary Injunction, and states as follows:

1. A hearing on Plaintiff’s Motion for Summary Judgment and Motion for Temporary Injunction is currently scheduled for 1 day on February 19, 2026, starting at 9:00 a.m.
2. Prior to the setting of that hearing, the Defendant filed an Amended Motion to Dismiss the Plaintiffs’ amended complaint. Following a hearing, the Court reserved ruling on the Amended Motion to Dismiss.
3. On February 11, 2026, the Court entered its Order on Defendant’s Motion to Dismiss, which dismissed the claims asserted by Plaintiff, Flagler County – Palm Coast

Homebuilders Association, Inc. and granted said Plaintiff leave to file a second amended complaint within ten (10) days.

4. The Plaintiffs have now filed a Second Amended Complaint, which is the new operative pleading in this action. The Plaintiffs' first Amended Complaint no longer serves any purpose in the record. See *Dee v. S. Brewing Co.*, 1 So. 2d 562 (Fla. 1941)

5. Despite the filing of the Second Amended Complaint and allowing the Defendant to file its responsive pleadings, the Plaintiffs seek to proceed with the previously noticed hearing on the Motion for Summary Judgment and Amended Motion for Temporary Injunction.

6. As a result of the recent filings, it is unclear which Complaint governs these pending motions. This issue is significant because the Court's Order on Defendant's Amended Motion to Dismiss dismisses the claims asserted by Plaintiff, Flagler County-Palm Coast Homebuilders Association, Inc., therefore standing is at issue.

7. Standing is a threshold requirement for both motions and a Plaintiff who lacks standing cannot be granted a summary judgment or a temporary injunction.

8. The motions were directly related to the prior complaint, which has now been superseded by the Second Amended Complaint and can no longer be used as a pleading. See *Watkins v. Sims*, 88 So. 764 (Fla. 1921). The filing of the Second Amended Complaint materially alters the pleadings and the issues before the Court.

9. Furthermore, a motion for summary judgment and a motion for temporary injunction directed to a superseded pleading is procedurally improper and should not proceed absent refiling or supplementation directed to the operative complaint.

10. The Defendant has not had a reasonable opportunity to evaluate, respond to, or conduct discovery, related to the allegations and claims asserted in the Amended Complaint, nor to assess whether additional motions directed to the amended pleading are appropriate.

11. Proceeding with a hearing on dispositive and extraordinary relief based on a newly filed Amended Complaint would prejudice Defendant and deny Defendant a meaningful opportunity to be heard.

12. Florida Courts routinely recognize that summary judgment and injunctive relief must be considered based on the operative pleadings, and that adequate time to respond to the operative pleadings is required.

13. This Motion is made in good faith and not for purposes of delay.

14. This Motion is filed as an emergency because the hearing on Plaintiffs' Motion for Summary Judgment and Amended Motion for Temporary Injunction is imminent and the Defendant will be forced to proceed on dispositive and extraordinary relief and immediate court intervention is needed to avoid confusion of the pleadings at issue and to preserve the Defendant's due process rights.

WHEREFORE, Defendant requests that the Court enter an Order continuing the hearing on Plaintiff's Motion for Summary Judgment and Amended Motion for Temporary Injunction, and rescheduling the hearing for a date after Defendant has had an opportunity to file a responsive pleading to the Second Amended Complaint.

**CERTIFICATE OF CONFERRAL**

I hereby certify that pursuant to Florida Rules of Civil Procedure, Rule 1.202, the undersigned counsel has conferred with counsel for the Plaintiffs regarding the relief sought in this motion on February 13, 2026, and the Plaintiffs' counsel objects to the filing of this motion.

**CERTIFICATE OF SERVICE**

I certify that, in compliance with Fla. R. Gen. Prac. & Jud. Admin. 2.516, the foregoing document has been filed with the Florida Courts E-Filing Portal System on this 13th day of February, 2026. Accordingly, a copy of the foregoing is being served on this day to the attorneys or interested parties identified in the e-Portal Electronic Service List, including those listed below, via transmission of Notices of Electronic Filing generated by the e-Portal System.

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