

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

FLAGLER COUNTY,

CASE NO.: 2021-CA-000109

Plaintiff,

v.

AJMAL M. ZULALI, ZUBAIR M.  
ZULALI and 2251 S OLD DIXIE  
HIGHWAY LLC,

Defendants.

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**ORDER GRANTING PLAINTIFF'S AMENDED  
MOTION FOR PARTIAL SUMMARY JUDGMENT (DKT #67)**

**THIS MATTER** came before the Court upon Plaintiff's Amended Motion for Partial Summary Judgment (hereinafter "Motion") filed by and through counsel on February 12, 2024. The Court, having reviewed the Plaintiff's motion, 2251 S Old Dixie Highway LLC (hereinafter "Defendant") Response and Supplemental Responses to Plaintiff's Motion. This action involves the enforcement of an Agreement (the Agreement) between Plaintiff, Flagler County (County), and the Defendant, 2251 S Old Dixie Highway LLC, regarding property located in Flagler County at 2251 South Old Dixie Highway, Bunnell, Florida 32110, Parcel No.: 03-13- 31-0650-000A0-0091 ("Property") and more particularly described in instrument number 2017043977 recorded in Book 2247, Pages 1598 to 1601, of the Public Records of Flagler County, Florida. Upon receiving argument of counsel, reviewing the court file, and being otherwise fully advised in the premises, finds as follows:

**SUMMARY JUDGMENT STANDARD**

A party may move for summary judgment, identifying each claim or defense--or the part of each claim or defense--on which summary judgment is

sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court shall state on the record the reasons for granting or denying the motion. The summary judgment standard provided for in this rule shall be construed and applied in accordance with the federal summary judgment standard.

Fla. R. Civ. P. 1.510(a) (2024).

### **ANALYSIS AND CONCLUSION**

In the instant case, Plaintiff moved for partial summary judgment. Plaintiff alleges that Defendant failed to perform as required under the contract that both Plaintiff and Defendant agreed to and that the Court should grant summary judgment in favor of Plaintiff because of Defendant's breach of the contract. The Court adopts all undisputed facts in support of its ruling.

The Defendant found a distressed property subject to active litigation and enforcement proceedings with the County and rightly saw an opportunity. The Defendant is a seasoned commercial investor who stood on an equal footing with the County to negotiate the contract at issue herein. The Defendant was at all times unhindered and able to conduct its due diligence investigating the responsibilities and actions needed to fulfill each prospective term of the prospective contract. The Defendant was at all times an arm's length purchaser free to walk away without any repercussions. As of then, they had no dog in the hunt. *They* were not involved in any of the litigation or enforcement actions in process by the County— those were the Co-Defendants Zulali(s). If they were, some of the Defendant's arguments as to the contract being illusory, unconscionable, or impossible may be debatable.

The Court finds that under the contract the Defendant agreed to "correct and/or repair the conditions on the Property," and the contract described the specific actions that the Defendant needed to perform for the property to be considered in a correct and repaired condition. If the Defendant failed to meet those conditions by August 20, 2021, the Defendant would be required

to provide a cash deposit of \$250,000.00 with the Flagler County Clerk of Court. The Defendant argues that completion of the agreed upon terms within the time provided was an “impossible” task. The Defendant adds that it should not be required to submit the cash deposit of \$250,000.00 to the Flagler County Clerk of Court, despite the contract requiring Defendant to do so.

Upon reviewing the contract, the uncontested facts, and the arguments from the parties, the Court finds that summary judgment should be granted as moved for in the Amended Motion for Summary judgment. The Defendant entered into their agreement and the Defendant refused to fulfill its end of its part of the bargain. The contract is in no way illusory or unconscionable. The consideration is found in the forbearance of the County’s abatement of the pending litigation. All terms and conditions of the contract are clear, unambiguous, and bargained for by the Defendant.


The Defendant did not perform the required corrections and/or repairs to the property to fulfill its end of the agreement. Additionally, Defendant did not provide the Flagler County Clerk of Court with a \$250,000.00 cash deposit, as required by the contract because Defendant did not make the required corrections and/or repairs to the property by August 20, 2021.

Accordingly, it is **ORDERED AND ADJUDGED** that the Plaintiff’s amended motion for partial summary judgment is **granted** against 2251 Old Dixie Highway LLC. Further:

1. The Agreement is a valid and binding contract between the parties.
2. That the Plaintiff, Flagler County, fully performed its obligations under the Agreement.
3. That the Defendant, 2251 S Old Dixie Highway LLC, failed to perform remedial tasks under section 3(A)(i) and 3(A)(iii) of the Agreement.
4. That the Defendant, 2251 S Old Dixie Highway LLC, failed to perform any of the remedial tasks under section 3(B) of the Agreement.

5. That the Defendant, 2251 S Old Dixie Highway LLC, is obligated under Section 4(B) of the Agreement to deposit a \$250,000.00 Cash Bond with the Flagler County Clerk of the Court as security for the abatement of the public health and building code violations that may exist on the Property and will do so within **10 days** of this order.

**DONE AND ORDERED** in Chambers, in Flagler County, Bunnell, Florida, this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

6/19/2024 1:59 PM 2021 CA  
000109 

e-Signed 6/19/2024 1:59 PM 2021 CA 000109

Christopher A. France,  
Circuit Court Judge

Copies to:  
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