

FLAGLER COUNTY,

Plaintiff,

v.

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

Defendants.

---

IN THE CIRCUIT COURT OF THE 7<sup>th</sup>  
JUDICIAL CIRCUIT, IN AND FOR  
FLAGLER COUNTY, FLORIDA

CASE NO.: 2021 CA 000109  
DIVISION: Christopher France

**DEFENDANT'S SECOND AMENDED SUPPLEMENT TO RESPONSE IN  
OPPOSITION TO AMENDED MOTION FOR PARTIAL SUMMARY JUDGMENT  
AND MOTION TO CONTINUE SUMMARY JUDGMENT HEARING AND/OR  
FOR REHEARING AND/OR RECONSIDERATION**

Defendant, 2251 S OLD DIXIE HWY LLC, by and through the undersigned counsel and pursuant to applicable rules, hereby files its *Second Amended Supplement to Response in Opposition to Amended Motion for Partial Summary Judgment and Motion to Continue Summary Judgment Hearing and/or for Rehearing and/or for Reconsideration*, (the "Supplement"), and in support thereof further states as follows:

1. Plaintiff initiated parallel proceedings, pursuant to a Condemnation and Demolition Order and Proceedings, undertaken by Flagler County Chief Building Official, Case No. 2024020027, regarding the subject property in the instant litigation, which involves the same material facts and substantially similar legal conclusions.
2. There was an evidentiary hearing in the parallel proceedings on June 5, 2024, which involved multiple witnesses and the submission of evidence. *See* "Exhibit A", Notice of Hearing.
3. The magistrate issued verbal findings on the record and Defendant anticipates receiving a written finding related to denying the request for demolition.
4. Said findings go expressly to the heart of the allegations of this litigation.

5. Defendant hired a court reporter, ordered a copy of the transcript, and shall file the transcript in this action.

6. On June 20, 2024, Defendant filed a copy of the magistrate's ruling with this Court. *See Exhibit "B."*

7. As of the date of this Motion, Defendant is still waiting for a copy of the transcript, which will have additional testimony and exhibits in support of denial of summary judgment.

8. On June 11, 2024, Defendant set the prior iteration of this motion for hearing, which is scheduled for July 11, 2024.

9. In the interim, the Court issued its Order Granting Plaintiff's Amended Motion for Partial Summary Judgment (the "Summary Judgment Order") on June 19, 2024, which granted partial summary judgment.

10. The Summary Judgment Order did not rule upon all of Defendant's affirmative defenses, some of which still preclude enforcement of the underlying contract.

11. The Summary Judgment Order required Defendant to deposit sums into the Court registry, however the Plaintiff's Amended Motion for Partial Summary Judgment (the "Motion for Summary Judgment"), did not seek an injunction requiring deposit of said funds, but instead sought a ruling upon the alleged breach related thereto.

12. For the reasons stated herein, the reasons articulated at the hearing on the Motion for Summary Judgment, and the reasons articulated in the magistrate's order and the underlying hearing, this Court should stay execution of the Summary Judgment Order, grant rehearing and/or reconsideration, and reopen evidence related thereto.

13. Defendant shall supplement its Response in Opposition to Plaintiff's Amended Motion for Partial Summary Judgment in light of these subsequent proceedings, testimony, evidence, and orders.

WHEREFORE, Defendant requests this Court allow Defendant to supplement its response in light of these supplemental proceedings, testimony, evidence, and orders, grant rehearing and/or reconsideration, and/or stay or vacate the Summary Judgment Order until such testimony and evidence are filed herein and the response to summary judgment is updated accordingly, and for all other and further relief as it deems just and proper.

Respectfully submitted,

**THE D'APUZZO LAW FIRM**  
2755 E. Oakland Park Blvd. Ste. 303  
Ft. Lauderdale, FL 33306  
Telephone: (954) 507-4074  
Facsimile: (954) 507-4076  
Email: ted@dapuzzolaw.com  
service@dapuzzolaw.com

By: /s/ T. D'Apuzzo  
Theodore D'Apuzzo, Esq.  
Florida Bar No.: 0073018

### **CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing was furnished to via: e-mail to Abraham C. McKinnon, Esq. and Noah C. McKinnon, Jr., Esq. at lynn@mckinnonandmckinnopa.com, amckinnon@mckinnonandmckinnopa.com to Albert J. Hadeed, Esq. and Sean S. Moylan, Esq. at ahadeed@flaglercounty.org, smoylan@flaglercounty.org and via U.S. Mail to Zubair M. Zulali and Ajmal M. Zulali at 10780 Foxwood Road, San Diego, CA 92126, on this 21st day of June, 2024.

By: /s/ T. D'Apuzzo  
Theodore D'Apuzzo, Esq.

# **EXHIBIT “A”**

# Code Enforcement

1769 E. Moody Blvd., Bldg. 2



**FLAGLER  
COUNTY**  
FLORIDA

[www.flaglercounty.org](http://www.flaglercounty.org)

Phone: (386)313-4083

Fax: (386)313-4102

## NOTICE OF HEARING

May 2, 2024

Case Number: 2024020027

Case Type: **Unsafe Structure**

Owner:

2251 S Old Dixie Hwy LLC  
301 E 66th St  
Apt # 6 E  
NY, NY 10065

**Registered Agent:**

**The D'Apuzzo Law Firm**  
2755 E Oakland Park Blvd  
Suite 303  
Ft Lauderdale, FL 33306

Pursuant to Chapter 162, Florida Statutes, and Chapter 9 of the Flagler County Code of Ordinances, you are hereby called upon to take notice that Public Hearing will be conducted in the below-stated style by the Special Magistrate, on the 5<sup>th</sup> day of June 2024, at 1:00 PM., in the County Commission Chambers, 1769 E Moody Boulevard, Building #2.

**VIOLATION:** SECTION 111.1 .1 IPMC

**LOCATION OF VIOLATION:** 2251 S OLD DIXIE HIGHWAY, BUNNELL FL 32110

The Special Magistrate shall receive testimony and evidence at the said Public Hearing and shall make such findings of fact and conclusions of law as are supported by the testimony and evidence presented by all parties concerning this case. If the violation is corrected and then recurs or if the violation is not corrected and the citation is paid within the specified period, this case may be presented to the Special Magistrate even if the violation has been corrected prior to the Hearing. Your failure to appear will not prevent further orders being issued against you.

Andy Dance  
District 1

Greg Hansen  
District 2

David Sullivan  
District 3

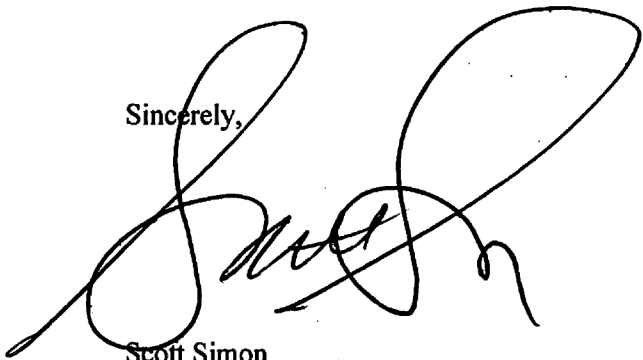
Leann Pennington  
District 4

Donald O'Brien, Jr.  
District 5

If the person decides to appeal any decision made by the Special Magistrate with respect to any matter considered at this meeting or public hearing, such person will need a record of the proceedings, and may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. In accordance with the American with Disabilities Act, persons needing assistance to participate in this meeting should contact County Administration at (386) 313-4001 at least 48 hours prior to the meeting for information regarding available aids and services.

**CERTIFIED MAIL NUMBER: 9489017898203021594249**

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott Simon', written over a large, stylized loop.

Scott Simon  
Code Enforcement Inspector  
Flagler County



Label 890-QDT March 2023

9489 0178 9820 3021 5942 49



quadrant

FIRST-CLASS MAIL  
IMI

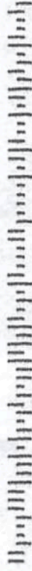
**\$007.36**

05/02/2024 ZIP 32110  
043M31242044

US POSTAGE

The D'Apuzzo Law Firm  
2755 E Oakland Park Blvd  
Suite 303  
Ft Lauderdale, FL 33306

33306-162978



# **EXHIBIT “B”**



FLAGLER COUNTY,

Plaintiff,

v.

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

Defendants.

---

IN THE CIRCUIT COURT OF THE 7<sup>th</sup>  
JUDICIAL CIRCUIT, IN AND FOR  
FLAGLER COUNTY, FLORIDA

CASE NO.: 2021 CA 000109

DIVISION: Terence Perkins

**DEFENDANT'S NOTICE OF FILING**  
**SPECIAL MAGISTRATE IPMC APPEAL ORDER**

Notice is hereby given that Defendant, 2251 S OLD DIXIE HWY, LLC, by and through its undersigned counsel, hereby files a copy of the June 14, 2024 *Special Magistrate IPMC Appeal Order*, a true and accurate copy of which is attached hereto.

Respectfully submitted,

**THE D'APUZZO LAW FIRM**  
2755 E. Oakland Park Blvd. Ste. 303  
Ft. Lauderdale, FL 33306  
Telephone: (954) 507-4074  
Facsimile: (954) 507-4076  
Email: ted@dapuzzolaw.com  
service@dapuzzolaw.com

By: /s/ T. D'Apuzzo  
Theodore D'Apuzzo, Esq.  
Florida Bar No.: 0073018

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing was furnished to via: e-mail to Abraham C. McKinnon, Esq. and Noah C. McKinnon, Jr., Esq. at lynn@mckinnonandmckinnopa.com, amckinnon@mckinnonandmckinnopa.com to Albert J. Hadeed, Esq. and Sean S. Moylan, Esq. at ahadeed@flaglercounty.org, smoylan@flaglercounty.org and via U.S. Mail to Zubair M. Zulali and Ajmal M. Zulali at 10780 Foxwood Road, San Diego, CA 92126, on this 20<sup>th</sup> day of June, 2024.

By: /s/ T. D'Apuzzo  
Theodore D'Apuzzo, Esq.

1 FLAGLER COUNTY  
2 CODE ENFORCEMENT

3  
4 FLAGLER COUNTY,  
5 a political subdivision of the  
6 State of Florida

7  
8 Petitioner,

9 SM No.: 2024-002  
10 CE Case No.: 2024020027

11 v.

12 2251 S OLD DIXIE HWY, LLC,  
13 Owner of the Property located at:  
14 2251 S Old Dixie Hwy.  
15 Bunnell, Florida 32110  
16 Tax Parcel No. 03-13-31-0650-000A0-0091

17  
18 Respondent,  
19 \_\_\_\_\_/

20  
21 SPECIAL MAGISTRATE  
22 IPMC APPEAL ORDER  
23

24 THIS CAUSE, having come for Public Hearing before the Special Magistrate on  
25 June 5, 2024, after due notice to the Respondent 2251 S Old Dixie Hwy, LLC, and the  
26 Special Magistrate at the Public Hearing receiving evidence and hearing testimony and  
27 arguments under oath, the Special Magistrate hereby issues Findings of Fact, Conclusions  
28 of Law, and an Order as follows:

29  
30 FINDINGS OF FACT

- 31
- 32 1. The Respondent 2251 S Old Dixie Hwy, LLC (“Respondent”) owns real property  
33 located at 2251 S Old Dixie Hwy, Bunnell, Florida 32110, with a Flagler County  
34 Tax Parcel No. 03-13-31-0650-000A0-0091 (“Property”).  
35
  - 36 2. In May 2021, the Property was conveyed to Respondent by the previous owner.  
37
  - 38 3. Since 2019, the structure(s) on the Property have remained vacant.  
39
  - 40 4. On January 13, 2021, and recorded in the Public Records of Flagler County on  
41 January 15, 2021 (Instrument No. 2021002293), Petitioner issued the previous  
42 owner of the Property a Certificate of Unsafe Structure pursuant to the requirements  
43 of the Florida Building Code and Section 8-301, et seq., of the Flagler County  
44 Standard Unsafe Abatement Code.  
45

- 46 5. From June 2021 through March 2023, the Respondent has submitted various  
47 applications and received permits from Flagler County to conduct a variety of work  
48 at the Property, including fencing, roofing, concrete restoration, and demolition.  
49
- 50 6. In February 2024, Respondent submitted a site plan application for the Property  
51 that is currently under review by Flagler County. On May 22, 2024, Respondent  
52 submitted a letter to Flagler County responding to comments received by the  
53 Flagler County Technical Review Committee regarding the site plan application for  
54 the Property (Project No. 2024020056 / AR Number 4687).  
55
- 56 7. Pursuant to Section 8-56 of the Flagler County Code of Ordinances, Flagler County  
57 has adopted by reference the 2021 International Property Maintenance Code  
58 (“IPMC”), as may be amended from time to time, to govern and regulate the  
59 maintenance of properties and structures in Flagler County.  
60
- 61 8. On February 13, 2024, the Flagler County Building Official issued to Respondent  
62 a Notice of Condemnation and Demolition Order to Respondent. The Notice  
63 provided a Notice of Condemnation – Structure Unfit for Human Occupancy  
64 pursuant to three findings:  
65
- 66 a. The Building Official deemed the structure located on the Property as an Unsafe  
67 Structure pursuant to IPMC Section 111.1.1 (IPMC Section 109.1.1 in the 2024  
68 edition); and
- 69 b. The Building Official deemed the structure located on the Property as a  
70 Structure Unfit for Human Occupancy pursuant to IPMC Section 111.1.3  
71 (IPMC Section 109.1.3 in the 2024 edition); and
- 72 c. The Building Official deemed the structure located on the Property as a  
73 Dangerous Structure or Premises pursuant to IPMC Section 111.1.5 (IPMC  
74 Section 109.1.5 in the 2024 edition, referred to as “Hazardous Structure or  
75 Premises”).  
76
- 77 9. The Notice of Condemnation and Demolition Order issued by Petitioner on  
78 February 13, 2024, also included a Demolition Order, ordering Respondent  
79 pursuant to IPMC Section 113 (IPMC Section 111 in the 2024 edition) to demolish  
80 and remove the structure located on the Property within 30 days after the date of  
81 the Notice. The finding was based on the Building Official’s determination that the  
82 structure is so deteriorated or dilapidated or has become so out of repair as to be  
83 dangerous, unsafe, insanitary, or otherwise unfit for human occupancy, and such  
84 that it is unreasonable to repair the structure.  
85
- 86 10. The Notice of Condemnation and Demolition Order issued by Petitioner on  
87 February 13, 2024, included an Owner’s Right to Appeal the Notice, whereby  
88 Respondent may submit a written application for appeal to the Building Official  
89 within 20 days after the Notice was served pursuant to the IPMC. The application  
90 for appeal must be in writing and, pursuant to IPMC Section 107.2 (IPMC Section  
91 106.2 in the 2024 edition), must be based on a claim that the true intent of the IPMC

92 has been incorrectly interpreted, the provisions of the IPMC do not fully apply, or  
93 the requirements of the IPMC are adequately satisfied by other means.

- 94  
95 11. On March 4, 2024, the Respondent submitted a timely written application for  
96 appeal to the Flagler County Building Official.  
97  
98 12. Pursuant to Section 8-56n of the Flagler County Code of Ordinances, Flagler  
99 County specifically excluded adoption of the IPMC provisions for a Board of  
100 Appeals to hear appeals under the IPMC, and pursuant to Section 9-12 of the Flagler  
101 County Code of Ordinances uses a Special Magistrate to hear such appeals.  
102  
103 13. On June 5, 2024, the undersigned held a Public Hearing on this matter.  
104  
105 14. At the Public Hearing, the Flagler County Building Official testified as to his  
106 findings in support of his conclusion that the structure located on the Property is an  
107 Unsafe Structure, a Structure Unfit for Human Occupancy, and a Dangerous  
108 Structure pursuant to the IPMC. The Building Official also testified that the  
109 structure is capable of being repaired.  
110

111 CONCLUSIONS OF LAW

- 112  
113 1. The Special Magistrate has jurisdiction over this matter pursuant to Chapter 162,  
114 F.S., Section 106 of the 2024 IPMC, and Sections 9-12 and 9-13, Flagler County  
115 Code of Ordinances.  
116  
117 2. The Respondent was given adequate notice of the Public Hearing held on June 5,  
118 2024, and was provided an opportunity to be heard, present evidence, and cross-  
119 examine witnesses.  
120  
121 3. The competent substantial evidence presented and admitted into evidence at the  
122 Public Hearing on June 5, 2024, establishes that the structure located on the  
123 Property is an Unsafe Structure, a Structure Unfit for Human Occupancy, and a  
124 Dangerous Structure pursuant to the IPMC.  
125  
126 4. Petitioner failed to present and admit competent substantial evidence at the Public  
127 Hearing on June 5, 2024, sufficient to establish that the structure located on the  
128 Property is so deteriorated or dilapidated or has become so out of repair that it is  
129 unreasonable to repair the structure. As such and relating to the Demolition Order  
130 issued by Petitioner on February 13, 2024, the true intent of the IPMC has been  
131 incorrectly interpreted by the Building Official and the applicable provisions of the  
132 IPMC do not fully apply.  
133

134 ORDER

135  
136 It is ORDERED that:  
137

- 138 1. The Notice of Condemnation and Demolition Order issued by Petitioner on  
139 February 13, 2024, is affirmed as to the Notice of Condemnation – Structure Unfit  
140 for Human Occupancy, which deemed the structure located on the Property to be  
141 an Unsafe Structure, a Structure Unfit for Human Occupancy, and a Dangerous  
142 Structure pursuant to the IPMC.  
143
- 144 2. The Notice of Condemnation and Demolition Order issued by Petitioner on  
145 February 13, 2024, is reversed and dismissed as to the Demolition Order.  
146

147  
148 DONE AND ORDERED this 14th day of June 2024 in Flagler County, Florida.  
149

150 SPECIAL MAGISTRATE

151  
152  
153 By: /s/ Sean M. McDermott  
154 Sean M. McDermott  
155 Flagler County Special Magistrate