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

30 CINNAMON BEACH WAY, LLC, a Florida limited liability company, and VACATION RENTAL PROS PROPERTY MANAGEMENT, LLC, a Florida limited liability company,

Plaintiffs,

v.

FLAGLER COUNTY, a political subdivision of the State of Florida,

Defendant.
_____/

CASE NO.:

DIVISION:

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs, 30 CINNAMON BEACH WAY, LLC, (hereinafter "CBW") and VACATION RENTAL PROS PROPERTY MANAGEMENT, LLC (hereinafter "VRP") (collectively, CBW and VRP are hereinafter the "Plaintiffs") by and through their undersigned counsel, sue Defendant, FLAGLER COUNTY (hereinafter the "County"), and state:

Jurisdiction and Venue

1. This is an action for declaratory relief and preliminary and permanent injunctions.

2. This Court has jurisdiction in this matter pursuant to Art. V (b), Fla. Const., and Sections 26.012(2)(c) and (3), and 86.011, Fla. Stat., as this is a claim seeking equitable and injunctive relief and raises claims otherwise not cognizable by the county courts.

3. Venue is proper in Flagler County pursuant to Section 47.011, Fla. Stat., as the actions and the facts giving rise to this Complaint occurred in Flagler County, the real property owned by CBW and otherwise impacted by the actions of the County is located in Flagler County, and the County maintains its headquarters and principle place of business and is

otherwise located in Flagler County.

The Parties

4. CBW is a Florida limited liability company created and existing under Florida law. CBW maintains its principal office at 200 Executive Way, Suite 200, Ponte Vedra, Florida and does business in Flagler County, Florida.

5. VRP is a Florida limited liability company created and existing under Florida law. VRP maintains its principal office at 200 Executive Way, Suite 200, Ponte Vedra, Florida and does business in Flagler County, Florida.

6. The County is a non-charter county and a political subdivision of the State of Florida pursuant to Section 7.18, Fla. Stat. The County is responsible for adopting, administering, and enforcing land development regulations for real property within the unincorporated areas of the County.

7. CBW owns an 11 bedroom single family home in a gated community known as Ocean Hammock Resort located in an unincorporated portion of Flagler County which is East of U.S. Highway 1. CBW purchased the unimproved real estate and constructed the home for the specific purpose of rental to vacationers and families on a short-term basis. Architectural plans for the 11 bedroom home were approved by the Architectural Review Board of Ocean Hammock Resort and a building permit and a certificate of occupancy were issued by the County. CBW invested substantial effort and financial resources (in excess or $835,000) into purchasing the real estate, designing the plans, and constructing the home for the specific purpose of renting it to families and vacationers on a short-term basis. Since its construction, the home has been advertised and rented as a vacation rental located in Ocean Hammock Resort which will accommodate 24 guests. CBW's investment and rental efforts were undertaken in reliance upon

the regulations concerning vacation rentals as they existed in Flagler County prior to the adoption of Ordinance No. 2015-02 ("the Ordinance"), which is attached hereto as Exhibit A. The Ordinance will apply to CBW's property and will destroy the viability of CBW's rental of the home to families and vacationers on a short-term basis and cause damages to CBW.

8. VRP operates a property management company which rents vacation properties owned by third-parties to the families and other members of the public. VRP currently manages the rental of in excess of 70 single-family homes located in Flagler County as short-term vacation rentals, accommodating up to 24 guests. The owners of these single-family homes managed by VRP rely on VRP to advertise their properties for short-term rental, contract on their behalf for the short-term rental of their properties, and to advise and assist them to comply with all applicable laws, ordinances and regulations concerning the short-term rental of their properties. VRP receives a fee from the owners of the properties based upon the income generated from short-term vacation rental. The Ordinance will apply to the properties managed by VRP and will destroy the viability of the rental of the homes managed by VRP to families and vacationers on a short-term basis and cause damages to VRP.

9. Ocean Hammock Resort is a gated community located along the Atlantic Ocean in the Eastern proportion of unincorporated Flagler County. Ocean Hammock Resort was designed to be a destination vacation resort and contains two 18-hole championship golf courses, single family homes, condominiums, meeting and convention facilities, a resort hotel, spa and other amenities typically associated with destination resorts. It was developed by entities controlled by Bobby Ginn. On January 16, 2001, the County Commission considered approval of the Ocean Hammock Resort development. During this Commission meeting, there was considerable discussion regarding whether to allow the use of the single family homes as short-

term vacation rentals. The Commission was informed by Mr. Ginn at this meeting that the Resort was being developed as a resort and that a single family homes would be rented on a short-term basis, even as short as a one-day rental. The Commission approved the project by unanimous vote.

10. The Restated Master Declaration of Covenants, Conditions and Restrictions for Ocean Hammock Resort specifically allows the rental of single family homes.

The Challenged Ordinance

11. On or about November 3, 2014, the Flagler County Board of County Commissioners held a first reading of the Ordinance. At the November 3, 2014 public hearing, the County Commission voted in favor of the draft ordinance, but instructed County staff to re-draft the Ordinance to address concerns raised at the public hearing.

12. Subsequently, County staff and the County Attorney redrafted large portions of the Ordinance. The changes constitute broad, substantive changes to the Ordinance.

13. The scheduled second reading of the Ordinance was postponed until a special meeting of the Flagler County Board of County Commissioners was held on February 19, 2015, at which time the Ordinance was approved by a majority vote of the County Commissioners.

14. The Ordinance was not re-noticed for first hearing, but instead, the County held a second hearing on February 19, 2015, and adopted a new Ordinance that bears little resemblance to the draft Ordinance presented and discussed at the prior public meeting.

15. The Ordinance imposes a series of regulations and restrictions that apply solely to single family homes and two-family homes located only in the unincorporated area East of U.S. Highway 1 which are rented by homeowners on a short-term basis and are not occupied by the homeowner on a full-time basis as an “on-premises permanent resident”. The majority of the

restrictions on occupancy, use, building and fire code regulations, and even on the content of rental contracts and advertising, apply to no other type of property use in Flagler County. These regulations target only a single type of land use – single family and duplex homes rented out on a short-term basis, located in a small portion of Flagler County located East of U.S. Highway 1, and which are not occupied by the homeowner on a full-time basis by the owner as an "on-premises permanent resident". The geographic area regulated by the Ordinance, unincorporated portions of the County located East of U.S. Highway 1, comprises only approximately 10% of Flagler County. The regulations contained in the Ordinance are specifically and uniquely *targeted* to a single class of property owners, single family and two-family homes located almost exclusively in the Ocean Hammock Resort community, even though Ocean Hammock Resort was developed and marketed by the developer as a destination resort community where short-term vacation rentals were not only to be expected, but encouraged and welcomed.

16. The Ordinance does not apply to multi-family properties, such as apartments and condominiums, even to high-density condominiums such as are located in Ocean Hammock Resort, or to rentals of any type of properties longer than 30 days.

17. The Ordinance applies to short-term vacation rentals, which are defined by Section 3.08.02 of the Ordinance as "transient public lodging establishments" and are more specifically defined as:

> Any unit, group of units, dwelling, building or group of buildings within a single complex of buildings which is rented to guests more than three (3) times in a calendar year for periods of less than thirty (30) days or one (1) calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

Exhibit A at p.26.

18. Under the Ordinance, a "transient lodging establishment" is legislatively deemed

by Flagler County to be a "non-residential, commercial business, whether operated for a profit or not" and, as such, becomes "subject to additional requirements of section 3.06.14 in the event that the transient lodging establishment is additionally considered to operate as a short-term vacation rental.'"

19. The Ordinance creates an onerous regime of County-issued certificates and approvals that must be obtained by a property owner in order to use a single family or two-family home located East of U.S. Highway 1 as a short-term vacation rental. The Ordinance then creates a series of restrictions and requirements that must be met in order for the property owner to obtain these County-issued certificates and rent their home or duplex to families or vacationers on a short term basis. However, the Ordinance notably exempts the short-term rental of condominium or apartment units in multifamily residential buildings, all properties in unincorporated areas West of U.S. Highway 1, and certain properties which are occupied by the owner as a full-time permanent resident from these very same regulations. Exhibit A at p. 10.

20. In order for a property owner to rent out their single family home or duplex on a short-term basis under the Ordinance, they must:

(a) Obtain a short-term vacation rental "certificate" from Flagler County;

(b) Obtain a business tax receipt from Flagler County under Chapter 19 of the County Code of Ordinances;

(c) Obtain a Florida Department of Revenue certificate of registration for purposes of collecting and remitting tourist development taxes, sales surtaxes, and transient rental taxes;

(d) Obtain a Florida Department of Business and Professional Regulation license as a transient public lodging establishment; and

(e) Meet and continue to comply with a lengthy list of "short-term vacation rental standards" created by the Ordinance.

Exhibit A at pp. 10-11.

21. Section 3.06.14 of the Ordinance creates 11 separate categories of "short-term vacation rental standards," all of which must be initially and continually met in order for a property owner to obtain and maintain the necessary County certificate and to rent out their home on a short-term basis. Most of these standards are unique to short-term vacation rental properties and apply to no other type of property use in Flagler County.

22. Section 3.06.14(C)(1) sets forth "safety" standards applicable only to the class of regulated short-term vacation rentals, including uniquely applied regulations for designs of existing and new swimming pools and spas, requirements for sleeping rooms or bedrooms, and requirements for interconnected and hardwired smoke and carbon monoxide detection systems, and wall-mounted fire extinguishers located on each floor.

23. Section 3.06.14(C)(2) sets maximum occupancy limitations of essentially one person per 150 square feet of "permitted conditioned living space," or two people per sleeping room plus two additional persons, and restricts occupancy based upon septic tank permit "assumed conditions" issued to a rental home by Flagler County. No criteria governing what those septic tank permit "assumed conditions" might be are specified in the Ordinance.

24. Section 3.06.14(C)(2)(d) creates a separate maximum occupancy restriction of ten (10) people in all zoning districts developed as single family homes or duplexes or located in any PUD development.

25. Section 3.06.14(C)(2)(e) also creates a third occupancy limit of 16 people in developments that are "predominantly" multifamily. However, the multifamily buildings that

predominate developments under 3.06.14(C)(2)(e) are themselves exempt from the Ordinance.

26. Section 3.06.14(C)(3) requires that not-less than one (1) off-street parking space be provided for each three (3) occupants in affected short-term rentals and prohibits on-street parking.

27. Section 3.06.14(C)(4) requires that a minimum number of 35 gallon trash containers be provided per licensed occupancy capacity, approved screening of trash cans per an undefined "local neighborhood standard", expressly regulates the time that the trash must be brought to the curb in an approved trash receptacle, and further regulates the time when the approved trash receptacles must be returned to the approved screened area. No similar restriction or regulation is placed on any non-rented or long-term rented property on the same street, nor is this restriction placed on short-term rental properties in multifamily buildings.

28. Section 3.06.14(C)(5) requires that specific terms and conditions be included in private rental contracts for renting single-family properties or duplexes on a short-term basis.

29. Section 3.06.14(C)(6) requires that specific informational signs be posted inside private properties being rented to families and vacationers on a short-term basis.

30. Section 3.06.14(C)(7) requires property owners to furnish families or vacationers a specified list of information notifying them of the regulations created by the Ordinance during their stay in an affected property.

31. Section 3.06.14(C)(8) requires an affected property owner who wishes to rent their property on a short-term basis to designate a "responsible party" who meets certain requirements later contained in the Ordinance.

32. Section 3.06.14(C)(9) requires that an affected property owner whose property is serviced by a septic system to "demonstrate the capacity" of the system. No standard or

definition is provided as to how the owner must demonstrate the capacity of the system.

33. Section 3.06.14(C)(10) requires that any advertising of an affected property for short-term rental must "conform" to the information contained in the Certificate issued by Flagler County, particularly as it pertains to maximum occupancy.

34. Section 3.06.14(D) requires a property owner who wishes to use their property for a short-term vacation rental must "first" apply for and receive a certificate from Flagler County and renew this certificate annually, and to pay an annual fee in an amount to be determined to the County and provides that the certificate will be revoked or suspended if any of the requirements of the Ordinance are not met.

35. Section 3.06.14(E)(1)(b) requires that an application for an initial or modified certificate contain an exterior site sketch showing all structures, pools, fencing and "uses", including areas provided for off-street parking and trash collection. It further provides that off-street parking spaces will be delineated so as to enable a fixed count of the number of spaces provided but that no parking will be permitted within a public right-of-way or private roadway tract.

36. Section 3.06.14(E)(1)(c) requires that an application for an initial or modified certificate contain an interior site sketch "demonstrating compliance" with the Ordinance.

37. Section 3.06.14(E)(1)(d) requires that an application for an initial or modified certificate contain copies of the informational postings required on the Property by the Ordinance.

38. Section 3.06.14(E)(1)(e) requires that an application for an initial or modified certificate contain a blank sample rental agreement contained the "required lease terms".

39. Section 3.06.14(E)(1)(g) requires that an application for an initial or modified

certificate contain “any other required information necessary to demonstrate compliance with the [Ordinance]”.

40. Section 3.06.14(F) of the Ordinance is titled:” Initial and routine compliance inspections of short-term vacation rentals”. “Routine” compliance inspections are not defined.

41. Sections 3.06.14(F) and 3.06.14(G) require the property owner submit to an initial inspection of the affected property and thereafter to re-inspections by County personnel for compliance with the Ordinance.

42. Section 3.06.14(G) requires that an affected property owner or his designee must serve as the “responsible party” for the property, that such responsible party must be at least 18 years of age, must be available at a listed phone number 24 hours a day, seven (7) days a week, be available to come to the property within two (2) hours following notification by Flagler County, be authorized to receive service of any legal notice on behalf of the owner for violations of the Ordinance, and must monitor the property at least once weekly for compliance with the Ordinance.

43. Section 3.06.14(H) requires that any short-term vacation rental or lease agreement must contain the names and ages of all persons who will be occupying the unit, and the license tag number of all vehicles to be parked at the property, with a total number of vehicles not to exceed the number of off-street parking spaces designated on the certificate issued by the County. There are no regulations as to the maximum number of allowed vehicles imposed on any other residential or non-residential use in Flagler County or which require that rental or lease agreements contain the names and ages of the occupants or the license tag number of all vehicles which will be parked there.

44. Section 3.06.14(I) requires that certain information must be posted inside an

affected property, including the maximum number of vehicles which can be parked at the property and a notice that "quiet hours" are to be observed between 10:00 p.m. and 8:00 a.m. daily. No "quiet hours" are imposed for any other residential or non-residential use in Flagler County. The Ordinance contains no definition of "quiet hours" nor any maximum decibel levels or other measureable criteria or guidance for determining what "quiet" means.

45. Section 3.06.14(J) of the Ordinance provides that the violation of any of the provisions of the Ordinance constitutes a violation, that for each day a violation exists constitutes a separate violation and that violations of the Ordinance may result in monetary fines, suspension or revocation of a certificate, liens and other civil and criminal penalties.

46. Section 3.06.14(N) provides that certain "existing, legally established" properties in operation as short-term rentals as of January 1, 2015 may have vested rights as follows, provided and on condition that they file a "full and complete" application for a certificate prior to April 15, 2015 and that they actually receive a certificate prior to July 1, 2015:

(a) Section 3.06.14(N)(1) provides that any short-term rental agreement entered into prior to February 19, 2015 for a rental period through February 28, 2016 shall be considered vested provided that the property owner must "demonstrate eligibility through the normal Short-Term Vacation Rental Certificate process".

(b) Section 3.06.14(N)(1) also provides that any short-term rental agreement entered into prior to February 19, 2015 for a rental period after March 1, 2016 shall be "required to be submitted to the County for verification and go through a vesting hearing process for a final determination" of whether it is vested. No criteria is provided in the Ordinance for "verification".

(c) Section 3.06.14(N)(1) further provides that any short-term rental agreement entered into after February 19, 2015 or for a rental period beyond January 1, 2017

shall fully comply with the provisions of the Ordinance.

(d) Section 3.06.14(N)(2) provides affected property owners shall have six (6) months from adoption of the Ordinance to comply with the requirements of Section 3.06.14 (C)(1) provided they demonstrate "eligibility through the normal Short-Term Vacation Rental Certificate process."

(e) Section 3.06.14(N)(3) recognizes that there are properties which "would otherwise physically qualify for larger occupancies" than permitted by the Ordinance and provides for a phasing in of the maximum occupancy limits of the Ordinance for "short-term vacation rentals lawfully in existence prior to February 19, 2015" in order to "recognize investment backed expectations and yet balance and protect the interest of other single-family and two-family properties who are not rental properties". However, no definition is provided as to what constitutes a "short-term vacation rental lawfully in existence prior to February 19, 2015".

(f) Section 3.06.14(N)(3) then provides that for qualifying properties the maximum occupancy may be temporarily capped at 14 through February 28, 2018, when it shall be reduced to 12 until February 28, 2021, and thereafter capped at 10, the maximum number permitted in Section 3.06.14(C)(2)(d).

(g) Section 3.06.14(N)(4) then provides that the owner of an affected property may apply for an "alternative vesting benefit" by supplying various specified forms of information on the property, including three (3) years of rental agreements and three (3) years of profit and loss statements certified by a CPA, and that the review process for an alternate vesting benefit must include notice to any property owners within 300 feet of the property.

47. Section 3.06.14(N)(5) provides that applications for vested rights will be

determined by a special master appointed by the County, that the burden of demonstrating entitlement to a vested right is on the applicant, and that the applicant must demonstrate that the application of the Ordinance would "inordinately burden an existing use of their real property or a vested right to specific use of their real Property."

48. Sections 3.06.14(N)(6) and 3.06.14(N)(7) provide that a vested use is not transferable to another owner of the property and that "if the vested use ceases for a period of six (6) months, then the vesting shall be considered to have lapsed".

49. Although couched in the veil of "public safety" or zoning regulations, the totality of the requirements in the Ordinance is to create an unworkable, arbitrary, oppressive, and cost-prohibitive scheme which effectively prohibits the operation of single-family and two-family properties as short-term vacation rentals, in accordance with the County's true intent to eliminate short-term vacation rentals in certain neighborhoods of the County.

50. Violations of the Ordinance subject the property owner to civil and criminal penalties.

51. As the result of the actions of the County, the Plaintiffs have been required to retain the undersigned attorneys and are obligated to pay them a reasonable fee.

COUNT I – DECLARATORY JUDGMENT
EXPRESS PREEMPTION BY STATE LAW

52. Plaintiffs re-allege paragraphs 1-51 as if fully set forth herein.

53. This is an action for a declaratory judgment pursuant to Chapter 86, Fla. Stat.

54. The regulation of the operation of short-term vacation rental properties is expressly preempted to the State of Florida:

> ***The regulation of public lodging establishments*** and public food service establishments, ***including, but not limited to, sanitation standards, inspections***,

> training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, ***is preempted to the state***. This paragraph ***does not preempt authority of a local government*** or local enforcement district ***to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code***, pursuant to ss. 553.80 and 633.206.

§ 509.032(7)(a), Fla. Stat. (2014) (emphasis added).

55. A "public lodging establishment" is defined by Section 509.013(4)(a), Fla. Stat., to include a "transient public lodging establishment," which is in turn defined as "any unit, group of units, dwelling, building, or group of buildings within a single complex which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised and held out to the public as a place regularly rented to guests." § 509.013(4)(a)1., Fla. Stat.[1]

56. Short-term vacation rentals are "public lodging establishments," the regulation of which is expressly preempted to the State.

57. The County's Ordinance contains numerous regulations on the operation of short-term vacation rental properties despite the express State preemption.

58. The Ordinance expressly requires owners of vacation rental properties to obtain a County license or "certificate" before the properties can be rented. The licensing of vacation rental properties is preempted to the State, and licenses for these properties are required to be obtained from the Florida Department of Business and Professional Regulation under a uniform set of State regulations, not from Flagler County under a unique set of County regulations.

59. The Ordinance requires vacation rental owners to obtain a certificate of registration from the Florida Department of Revenue for the purpose of remitting certain state

[1] Section 3.08.02 of the Ordinance uses the identical definition as that found in the statute in identifying "transient lodging facilities" which in turn are defined as short-term vacation rentals subject to the Ordinance and its regulations. Exhibit A at p. 26.

taxes, including *inter alia*, tourist development taxes.

60. This area of regulation has been expressly preempted to the State, which exempted the short-term rental of single family properties and duplexes from tourist development taxes under Section 125.0104(3)(a)1, Fla. Stat. However, the Ordinance overrides this uniform state-wide regulation and requires property owners to obtain a certificate that the Department of Revenue will not even issue.

61. The Ordinance requires an owner of a short-term vacation rental property to obtain and present to the County a transient lodging establishment license from the Department of Business and Professional Regulation. This begs the question, since the Department of Business and Professional Regulation (and not Flagler County) is legislatively designated to license vacation rental properties.

62. The Ordinance creates a unique set of operational standards for vacation rental properties, which differs from the uniform, statewide regulation of short-term vacation rentals already preempted to the State.

63. As expressly provided in Section 509.032(7)(a), Fla. Stat., the County only retains the authority to inspect short-term vacation rentals to ensure compliance with the Florida Building Code and Florida Fire Safety Act, not to inspect them for compliance with the Ordinance.

64. The County is not authorized to change the Florida Fire Safety Act for one specific type of land use. Section 633.206(1)(b), Fla. Stat., expressly provides that the State shall establish uniform fire safety standards that apply to public lodging establishments. The County may only ensure compliance with those standards. Under Section 633.206(2)(b), Fla. Stat., the County is expressly prohibited from requiring more stringent fire safety requirements unless

specific rule adoption procedures are followed. These procedures were not followed in this case, but the Ordinance creates new, more stringent standards for a single type of land use and enforces these unique standards through a County-specific licensing program.

65. Section 509.032(7)(b) Fla. Stat. provides that:

A local law, **ordinance**, or regulation **may not prohibit vacation rentals….**

66. Section 3.06.14(B) of the Ordinance *prohibits* any person from renting all or any portion of an affected property as a vacation rental without complying with all the provisions of the Ordinance, including obtaining and maintaining a County-issued certificate.

67. Section 3.06.14(L) of the Ordinance provides for the suspension of the certificate by the County and *prohibits* a property from being used as a vacation rental during any period that the certificate is suspended.

68. The Ordinance's prohibition of vacation rentals is contrary to State law and expressly preempted to the State of Florida.

69. The County has improperly regulated the operation of public lodging establishments by setting occupancy standards that apply only to short-term vacation rentals. Only the State is authorized to regulate short-term vacation rentals, and only the State can establish occupancy standards for them.

70. Other than inspecting a vacation rental for compliance with the Florida Building Code and Florida Fire Safety Code, the County is reserved only to the limited zoning power in Section 509.032(7)(b), Fla. Stat., to place traditional zoning controls upon property. However, the County's zoning power is limited to controls over the use of land such as height restrictions, lot sizes, floor area ratios, yard setbacks, and the like. The County is expressly barred by statute from prohibiting or regulating the short-term rental of residential properties. Here, the County is

attempting to directly prohibit and regulate the operation of vacation rental properties under the guise of this limited retention of zoning authority.

71. Plaintiffs and the County have antagonistic interests in the subject matter of this dispute.

72. The County has adopted an Ordinance that far exceeds the limited powers of zoning regulation and inspection for compliance with State Building and Fire Codes reserved to the County by the Florida Legislature. The Ordinance regulates every aspect of the operation of vacation rental properties from the number of occupants, to room size, to signage, and even including the content of rental agreements and advertising. The County has invaded an area of regulation that has been expressly preempted by State law.

73. Plaintiffs are entitled to a judicial decree regarding the preemption of the County's Ordinance by State law.

74. There exists a current dispute and controversy between Plaintiffs and the County as to the application of the express preemption in the Florida Statutes to the Ordinance adopted by the County.

75. Because the County has invaded an area of regulation expressly preempted by State law and has created a situation where CBW will be unable to rent its property to families or vacationers, or for Plaintiffs to even honor previously signed rental contracts given the extensive requirements of the Ordinance, a prompt resolution of this matter is vital.

76. Plaintiffs are therefore entitled to a speedy hearing in this cause pursuant to Section 86.111, Fla. Stat.

WHEREFORE, Plaintiffs respectfully request that this Court:

A) issue an order declaring that the Ordinance is preempted by State law and is

therefore invalid and unenforceable;

B) set this cause for an expedited date for trial in accordance with §86.111, Fla. Stat.;

C) award Plaintiffs their attorneys' fees and costs; and

D) provide such other relief as this Court deems just and proper.

COUNT II - DECLARATORY JUDGMENT
EQUAL PROTECTION

77. Plaintiffs re-allege paragraphs 1- 51 as if fully set forth herein.

78. This is an action for a declaratory judgment pursuant to Chapter 86, Fla. Stat.

79. The County is required by the Constitution to treat all persons and entities subject to its ordinances equally.

80. Through the Ordinance, the County imposes restrictions on certain short-term rental properties that are unique to these properties and are not imposed equally on other real properties.

81. By its terms, the Ordinance does not apply to the short-term rentals of apartments, condominiums, or multifamily residences, any properties located in areas West of U.S Highway 1, or to any properties which are occupied on a full time basis by the owner as an on-premises permanent resident. The Ordinance clearly targets single-family homes located in Ocean Hammock Resort. There is no rational basis for this distinction between the short-term rental of single-family and duplex properties and the short-term rental of other types of residential properties such as condominiums, nor for distinguishing between properties located West of U.S. Highway 1, or which are occupied on a full time basis by the owner as an on-premises permanent resident. Yet, the County has irrationally chosen to heavily restrict one category of properties and to exempt another.

82. The Ordinance also includes occupancy restrictions on short-term rental

properties. Under the Ordinance, the maximum short-term rental occupancy of single-family and duplex properties located East of U.S. Highway 1, which are not occupied on a full time basis by the owner as an on-premises permanent resident, is restricted to either 10 persons or, in certain limited cases, 16 persons. However, no occupancy restrictions exist on properties rented long-term or occupied full time. A six-bedroom or seven-bedroom vacation rental property is limited to ten occupants. Yet an identical property next door may be occupied by an extended family of unlimited size. Further, an identical property located West of U.S Highway 1 which is used for short-term vacation rentals, is not regulated by the Ordinance. There is no rational relationship to a legitimate government purpose to support this disparate treatment.

83. The Ordinance prohibits parking on the public right of way or on a private street for any property for which a certificate for short-term vacation rentals is obtained, apparently even prohibiting the owner of the property or his or her guest from parking on the street during a period when the owner himself is occupying the property. However, the permanent occupants or long-term rental occupants of the property next door are free to park on the street as much as they wish, as is the general public.

84. The Ordinance mandates the maximum number of vehicles which can be parked on a property issued a short-term rental certificate. However, the permanent occupants or long-term rental occupants of the property next door have no such restrictions imposed, nor are such parking restrictions imposed on any condominium or apartment. This selective and arbitrary regulation of parking is not rationally related to a legitimate government purpose.

85. The Ordinance imposes on short-term rentals “quiet hours” at unspecified noise levels. Yet the County imposes no similar noise restrictions on any other type of property. The permanently occupied or long-term rental property next to a short-term vacation rental property

has no such quiet hours restriction. The exempt apartment or condominium rented on a short-term basis enjoys the same right, as does a short-term rental property arbitrarily located West of U.S. Highway 1. No rational basis exists to create a unique noise ordinance for a single type of land use in the County where no other similarly situated land use in the County is subject to regulation.

86. The Ordinance imposes requirements on short-term rental occupancy of single-family and duplex properties located East of U.S. Highway 1, which are not occupied on a full time basis by the owner as an on-premises permanent resident, that mandate that the rental agreement contain the name and age of each short-term occupant and the license number of vehicles they will be driving, imposes requirements on their advertising, and specifies that there must be a designed responsible party who is available 24 hours a day, seven days a week, to respond to the property within two hour notice. This provision is virtually impossible to comply with, in that, in many instances, at the time when a guest enters into a rental agreement he will not know the names and ages of all of the occupants nor the tag number of the vehicles which will be parked there, especially if the guest is flying in and renting a car when he arrives. No rational basis exists for imposing these requirements on some properties rented on a short-term basis and not on others.

87. The Ordinance imposes requirements on short-term rental occupancy of single-family and duplex properties located East of U.S. Highway 1, which are not occupied on a full time basis by the owner as an on-premises permanent resident, that the owner designate a person who is authorized to accept service on his behalf of any legal notice concerning violation of the Ordinance, when Section 48.031, Fla.Stat. expressly specifies how process must be served. No rational basis exists for imposing this requirement on some properties rented on a short term

basis and not on others.

88. In numerous other instances, short-term vacation rentals are subject to unequal treatment under the Ordinance. In each instance, no rational basis exists for the distinction or the disparate treatment imposed by the Ordinance.

89. Plaintiffs and the County have antagonistic interests in the subject matter of this dispute.

90. The County has singled out a narrowly defined group of property owners for unequal treatment and regulation under the Ordinance without any rational basis for either the distinction or the disparate treatment. By doing so, the County has violated Plaintiffs' right to equal protection under the law pursuant to Article I, § 2 of the Florida Constitution.

91. Plaintiffs are entitled to a declaration of the discriminatory effect of the Ordinance.

92. There exists a current dispute and controversy between Plaintiffs and the County as to the discriminatory effect of the Ordinance as adopted by the County.

93. Because the County has unlawfully singled out Plaintiffs and similarly situated property owners for distinct and much harsher regulation, the County has created a circumstance where CBW will be unable to rent its property and where Plaintiffs can even honor signed rental contracts for the coming year. Given the extensive requirements of the Ordinance and the burden it imposes on affected properties, a prompt resolution of this matter is vital. Therefore, Plaintiffs are entitled to a speedy hearing pursuant to Section 86.111, Fla. Stat.

WHEREFORE, Plaintiffs respectfully request that this Court:

A) issue an order declaring that the Ordinance violates Article I, § 2 of the Florida Constitution and/or Amendment XIV of the U.S. Constitution and is therefore invalid and

unenforceable;

B) set this cause for an expedited trial in accordance with Section 86.111, Fla. Stat.;

C) award Plaintiffs their attorneys' fees and costs; and

D) provide such other relief as this Court deems just and proper.

COUNT III – DECLARATORY JUDGMENT
UNCONSTITUTIONAL VAGUENESS

94. Plaintiffs re-allege paragraphs 1 through 51 above as if fully set forth herein.

95. This is an action for declaratory judgment pursuant to Chapter 86, Fla. Stat.

96. Ordinances, particularly those which carry the threat of civil and criminal sanctions, must provide a person of ordinary intelligence with fair notice of what constitutes forbidden conduct. The County may not adopt an ordinance which, by its vague wording, leaves persons to necessarily guess at its meaning.

97. The Ordinance provides a variety of enforcement mechanisms, including code enforcement fines, property liens, a civil citation system, and "all other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies." Section 3.06.14(K).

98. Section 3.06.14(I)(1)(c) provides:

> On the back of or next to the main entrance door or on the refrigerator there shall be provided as a single page the following information:
>
> > (c) Notice that **quiet hours** are to be observed from 10:00 p.m. and 8:00 a.m. daily or as superseded by any County noise regulation. (Emphasis added).

99. There are no criteria whatsoever for a person of ordinary intelligence to apply, to determine what would constitute a violation of the quiet hours requirement in the Ordinance.

100. Without definition or objective standards, the Ordinance, as written, guarantees that enforcement will be arbitrary and discriminatory.

101. Section 3.06.14(C)(4) provides:

> *Solid waste handling and containment.* Based on the maximum transient occupancy permitted, one (1) trash storage container shall be provided per four (4) transient occupants or fraction thereof. **Appropriate screening** and storage requirements for trash storage containers shall apply per any development approval or **local neighborhood standard**, whichever is more restrictive, and be incorporated into the certificate. (Emphasis added).

102. The Ordinance's requirements of "appropriate screening" and "local neighborhood standard" are completely subjective. It is unclear who or what mechanism would determine the propriety of the screening. The lack of definite standards will result in arbitrary and discriminatory application of the requirements.

103. Section 3.06.14(C)(10) provides:

> *Advertising.* Any advertising of the short-term vacation rental unit shall conform to information included in the Short-Term Vacation Rental Certificate **and the property's approval, particularly** as this pertains to maximum occupancy. (Emphasis added).

104. The Ordinance's use of the words "particularly" and "the property's approval" makes the requirements regarding advertising void for vagueness. It is unclear whether the advertising **specifically and solely** must contain the maximum occupancy, whether that language is the minimum standard or whether the necessity that the advertising "conform" to the Rental Certificate and "the property's approval" requires something greater, or what is meant by the term "property's approval".

105. Section 3.06.14(N) provides:

> *Vesting.* **Existing, legally established** short-term vacation rentals …as of January 1, 2015 may become vested in the ways described below. (Emphasis added).

106. The terms "existing" and "legally established" are nowhere defined. It is totally unclear how much a property had to be used as a short-term rental property to be deemed

"existing". Further, it is equally unclear what standards have to have been met for the property to have been deemed "legally established" as of January 1, 2015.

107. In addition, although Section 3.06.14(N)(1) states that certain rental agreements entered into prior to February 19, 2015 "shall be considered vested", Sections 3.06.14(N)(3) and 3.06.14(N)(4) set forth different specific requirements for maximum occupancy vesting. It is totally unclear from these sections of the Ordinance whether or not the maximum occupancy standards of the Ordinance apply to rental agreements entered into prior to February 19, 2015.

108. Although the County has facially made it appear that the Ordinance allows for variances of its provisions and maximum occupancy restrictions by providing for a vesting procedure, such is merely illusory in that the initial threshold qualification standards to qualify for vesting and the conflicting provisions for approval of a higher maximum occupancy are unconstitutional vague and would result in arbitrary and discriminatory application of the requirements.

109. Section 3.06.14(C)(10) of the Ordinance, which became effective February 19, 2015, requires that any advertising of a property for short-term vacation rental "shall conform to information contained in the [Certificate] and the property's approval."

110. In order to procure rental agreements for future periods, property owners must advertise their properties now. However, the County has not yet even made available its application for a certificate, no certificates have been issued, and a property owner can not reasonably be expected to know what "information will be contained in its certificate and the property's approval. Thus, a property owner is faced with the choice of not advertising the property or publishing an advertisement in violation of the Ordinance.

111. Section 3.06.14(H) of the Ordinance, which became effective February 19, 2015,

requires that all new rental agreements entered into contain the maximum occupancy for the property "as permitted on the [Certificate]" and contain the names and ages of all persons who will be occupying the property as well as the tag numbers of all vehicles that will be parking at the property.

112. Rental agreements for vacation rentals are typically entered into months in advance of the time when the rental period will commence and at the time when the agreement is executed most renters do not know all of the persons who will be occupying the property nor do they know the tag numbers of the vehicles which will be parked there.

113. In order for owners of vacation rentals to enter into rental agreements now for future periods which comply with the Ordinance, the owner must include the maximum occupancy contained on the certificate, which has not been issued and is therefore unknown, as well as personal information on the renters which also may be unknown.

114. Plaintiffs and the County have antagonistic interests in the subject matter of this dispute.

115. Plaintiffs are entitled to a declaration that the Ordinance is void for vagueness.

116. There exists a current dispute and controversy between Plaintiffs and the County as to whether the Ordinance as adopted by the County is void for vagueness.

117. Because the County has unlawfully singled out Plaintiffs and similarly situated property owners for distinct and much harsher regulation under an Ordinance that is unconstitutionally vague, the County has created a circumstance where CBW will be unable to rent its property in the future or for Plaintiffs to even honor signed rental contracts for the coming year without violating the Ordinance. Given the extensive requirements of the Ordinance and the burden it imposes on affected properties, a prompt resolution of this matter is vital.

Therefore, Plaintiffs are entitled to a speedy hearing pursuant to Section 86.111, Fla. Stat.

WHEREFORE, Plaintiffs respectfully request that this Court:

A) issue an order declaring that the Ordinance is impermissibly vague and is therefore void and unenforceable;

B) set this cause for an expedited trial in accordance with Section 86.111, Fla. Stat.;

C) award Plaintiffs their attorneys' fees and costs; and

D) provide such other relief as this Court deems just and proper.

COUNT IV – DECLARATORY JUDGMENT
IMPAIRMENT OF CONTRACT

118. Plaintiffs re-allege paragraphs 1- 51 as if fully set forth herein.

119. This is an action for a declaratory judgment pursuant to Chapter 86, Fla. Stat.

120. Article I, Section 10 of the Florida Constitution provides: "No … law impairing the obligation of contracts shall be passed." The intent of this constitutional provision is to protect the beneficiaries of contract obligations and their successors and assigns.

121. Plaintiffs have entered into short-term rental contracts for future periods.

122. The Ordinance makes performance of many of these contracts impossible or at least uncertain, diminishes the value of these contracts, and places Plaintiffs in a position where they cannot perform or it is uncertain whether they will be able to perform under these contracts. The Ordinance makes it uncertain and difficult, if not impossible, for the parties to these various contracts to realize the benefits of their bargains.

123. Section 3.06.14(N) provides:

> *Vesting.* **Existing, legally established** short-term vacation rentals …as of January 1, 2015 may become vested in the ways described below. (Emphasis added).

124. The terms "existing" and "legally established" are nowhere defined. It is totally

unclear how much a property had to be used as a short-term rental property to be deemed "existing". Further, it is equally unclear what standards have to have been met for the property to have been deemed "legally established" as of January 1, 2015. Thus, a property owner does not know whether its property even qualifies for vesting.

125. If the property does qualify for vesting, Section 3.06.14(N)(1) states that rental agreements entered into prior to February 19, 2015 for a rental period through February 28, 2016 "shall be considered vested". However, Sections 3.06.14(N)(3) and 3.06.14(N)(4) set forth different specific requirements for maximum occupancy vesting. It is totally unclear from these sections of the Ordinance whether or not the maximum occupancy standards of the Ordinance apply to rental agreements entered into prior to February 19, 2015 for rental periods through February 28, 2016.

126. Section 3.06.14(N)(1) further states that rental agreements entered into prior to February 19, 2015 for a rental period after April 1, 2016 must be submitted to the County and go through a "vesting hearing process".

127. Section 3.06.14(N)(5) provides that in such a vesting hearing, the burden is on the property owner to demonstrate that the Ordinance places an "inordinate burden" on the property.

128. Thus, unless a property owner is deemed to have an existing, legally established short-term rental property, submits its existing rental agreements for rental periods after March 1, 2016 to the County and demonstrates an inordinate burden, it is unable to honor those agreements.

129. Further, any property owner who began short-term rental of their property after January 1, 2015, does not qualify for any vesting and is prohibited from honoring any of its rental agreements entered into prior to February 19, 2015, the effective date of the Ordinance.

130. Section 3.06.14(N)(6) of the Ordinance provides that any vested use of a short-term rental property is not transferrable to subsequent owner of the property, which presumably would include an involuntary transfer of the property such as to the heirs and devisees of the owner upon his or her death.

131. As a result, even if an existing rental agreement would be deemed vested and is assignable to a subsequent owner of the property, it would lose vesting upon transfer of the property and a subsequent owner would be unable to honor its terms.

132. The occupancy limitations and other regulations and restrictions in the Ordinance effectively prohibit Plaintiffs or their successors and assigns from performing their obligations under existing agreements.

133. The Ordinance is unconstitutional and unenforceable because it unlawfully impairs existing contracts.

134. Plaintiffs and the County have antagonistic interests in the subject matter of this dispute.

135. Plaintiffs are entitled to a declaration that the Ordinance is unconstitutional and unenforceable because it unlawfully impairs existing contracts.

136. There exists a current dispute and controversy between Plaintiffs and the County as to the validity of the Ordinance as adopted by the County.

137. Because the County has unlawfully singled out Plaintiffs and similarly situated property owners for distinct and much harsher regulations under an Ordinance that unconstitutionally impairs its existing contracts, the County has created a circumstance where Plaintiffs or their successors and assigns will be unable to honor signed rental contracts. Given the extensive requirements of the Ordinance and the burden it imposes on affected properties, a

prompt resolution of this matter is vital. Therefore, Plaintiffs are entitled to a speedy hearing pursuant to Section 86.111, Fla. Stat.

WHEREFORE, Plaintiffs respectfully request that this Court:

A) issue an order declaring that the Ordinance violates Article I, § 10 of the Florida Constitution and is therefore invalid and unenforceable;

B) set this cause for an expedited trial in accordance with Section 86.111, Fla. Stat.;

C) award Plaintiffs their attorneys' fees and costs; and

D) provide such other relief as this Court deems just and proper.

COUNT V – DECLARATORY JUDGMENT
PREEMPTION/CONFLICT

138. Plaintiffs re-allege paragraphs 1 through 51 as if fully set forth herein.

139. This is an action for a declaratory judgment pursuant to Chapter 86, Fla. Stat.

140. Section 3.06.14(G)(3)(c) he Ordinance imposes requirements on individuals owning short-term rental properties that they designate a "responsible party" who is authorized to receive service on behalf of the owner of any legal notice concerning violation of the Ordinance.

141. Such requirement is, in essence, a requirement that the owner of a short-term rental property maintain a "registered agent" authorized to accept service of process on his behalf.

142. Sections 607.0501 and 608.415, Fla.Stat., require, respectively, that each corporation and limited liability company maintain a registered agent to accept service of process and legal notices but no Florida statute requires an individual to designate or maintain a registered agent to accept service on their behalf.

143. Chapter 48, Fla.Stat., contains the requirements for service on individuals in the State of Florida.

144. The provisions of the Ordinance imposing a requirement on individuals owning short-term rental properties that they designate a person who is authorized to accept service on his behalf of any legal notice concerning violation of the Ordinance is in conflict with and preempted by Chapter 48 Florida Statutes.

145. Plaintiffs and the County have antagonistic interests in the subject matter of this dispute.

146. The County has adopted an Ordinance that is in conflict with and preempted by the aforesaid provisions of Florida law for service on individuals as set forth by the Florida Legislature.

147. Plaintiffs are entitled to a judicial decree regarding the conflict with and preemption of the County's Ordinance by State law.

148. There exists a current dispute and controversy between Plaintiffs and the County as to the conflict with and preemption by the provisions contained in Florida Statutes concerning the service of process and legal notices on individuals and the Ordinance adopted by the County.

149. Because the County has enacted an Ordinance in conflict with State law and has invaded an area of regulation preempted by State law, a prompt resolution of this matter is vital.

150. Plaintiffs are therefore entitled to a speedy hearing in this cause pursuant to Section 86.111, Fla. Stat.

WHEREFORE, Plaintiffs respectfully request that this Court:

A) issue an order declaring that the Ordinance is in conflict with and preempted by State law and is therefore invalid and unenforceable;

B) set this cause for an expedited date for trial in accordance with § 86.111, Fla. Stat.;

C) award Plaintiffs their attorneys' fees and costs; and

D) provide such other relief as this Court deems just and proper.

COUNT VI-DECLARATORY JUDGMENT
UNCONSTITUTIONAL VIOLATION OF RIGHT TO PRIVACY

151. Plaintiffs re-allege paragraphs 1 through 51 as if fully set forth herein.

152. This is an action for a declaratory judgment pursuant to Chapter 86, Fla. Stat.

153. Section 3.06.14(H)(2) provides that all short-term rental/lease agreements must contain the names and ages of all persons who will be occupying the property.

154. Article I, § 23 of the Florida Constitution provides that all citizens have the right to be free from governmental intrusion into their private lives.

155. Typically, rental agreements for short-term vacation rentals are entered into by only one individual who at his or her discretion may bring family and other guests to share the accommodation.

156. The party entering into the rental agreement may not know at the time he enters into the rental agreement the names or ages of all the persons who will occupy the vacation rental.

157. For various reasons, persons who are not the individual entering into the rental agreement may not want their names and/or ages appearing on the rental agreement.

158. Many parents are unwilling to disclose the names and ages of their children to unknown third parties owning vacation rentals or to include the names and ages of their children in a contract such as a rental agreement.

159. There exists a legitimate expectation of privacy with respect to the names and

ages of such persons and minor children.

160. There is no legitimate need nor interest by the County to compel all persons occupying a vacation rental or the parents of minor children to disclose their names or ages to persons unknown to them or to require that their names or the names and ages of minor children be contained in a short-term rental agreement.

161. Plaintiffs are entitled to a declaration that the Ordinance violates the fundamental right of privacy and is unenforceable.

162. There exists a current dispute and controversy between Plaintiffs and the County as to the validity of the provision in the Ordinance requiring that the names and ages of all occupants be contained in a short-term rental agreement.

163. Plaintiffs and the County have antagonistic interests in the subject matter of this dispute.

164. The constitutional right to privacy is a fundamental right and a prompt resolution of this matter is vital. Therefore, Plaintiffs are entitled to a speedy hearing pursuant to Section 86.111, Fla. Stat.

WHEREFORE, Plaintiffs respectfully request that this Court:

A) issue an order declaring that the Ordinance violates the right to privacy contained in Article I, § 23 of the Florida Constitution and is therefore invalid and unenforceable;

B) set this cause for an expedited date for trial in accordance with § 86.111, Fla. Stat.;

C) award Plaintiffs their attorneys' fees and costs; and

D) provide such other relief as this Court deems just and proper.

COUNT VII – PRELIMINARY INJUNCTIVE RELIEF

165. Plaintiffs re-allege paragraphs 1 through 164 as if fully set forth herein.

166. This is an action for preliminary injunctive relief.

167. Plaintiffs will be irreparably harmed by enforcement of the Ordinance. Plaintiffs or their successors and assigns are currently unable to discern their rights and obligations under the Ordinance, will be unable to fulfill their obligations under existing rental agreements and will therefore be in breach of these agreements. Plaintiffs will also be unable to advertise property for short-term vacation rental or to enter into further rental agreements for property due to uncertainty over the vague, confusing, and contradictory provisions of the Ordinance.

168. CBW will be discouraged from or unable to utilize its short-term vacation rental property upon implementation of the harsh and unreasonable restrictions and regulations in the Ordinance or to transfer the property due to the immediate loss of any vested rights immediately upon such transfer. If CBW uses its property in a manner that is construed by the County to be in violation of the vague, confusing, and contradictory provisions of the Ordinance, CBW would be subject to civil and criminal penalties that cannot be cured by money damages.

169. There is no adequate remedy at law for Plaintiffs injuries as a result of the Ordinance becoming effective. The Ordinance inhibits Plaintiffs use or transfer of their property, interferes with existing obligations of their contracts, and imposes numerous restrictions, many of which leave Plaintiffs guessing as to whether the property does or may ever comply with the Ordinance. Plaintiffs' injuries are difficult, if not impossible, to quantify monetarily.

170. Plaintiffs are likely to succeed on the merits of its claim, as the County seeks to regulate subject matter that is clearly and expressly preempted to the State under Florida Statutes. Further, the Ordinance is unenforceable by virtue of its impairment of contractual

obligations and rights, and the Ordinance is impermissibly vague and violates principles of equal protection and privacy.

171. Granting a temporary injunction will be in the public's best interest. CBW has for some time been using its property in this manner without incident and VRP has for many years been managing short term rental properties without incident, and an injunction will preserve the status quo and protect the rights of Plaintiffs and numerous other law abiding short-term rental property owners in Flagler County.

WHEREFORE, Plaintiffs respectfully requests that the Court enter a preliminary injunction enjoining enforcement of the Ordinance while this case is pending.

COUNT VIII – PERMANENT INJUNCTIVE RELIEF

172. Plaintiffs re-allege paragraphs 1 through 170 as if fully set forth herein.

173. This is an action for permanent injunction.

174. Plaintiffs seek a permanent injunction supplemental to the declaratory relief sought in Counts I through VI above.

175. The Ordinance violates Plaintiffs' clear legal rights. Plaintiffs have a right to be free from County regulation this is expressly preempted by State regulations with which Plaintiffs are in compliance. The Ordinance also violates Plaintiffs' clear legal right to be treated equally under the law, to have their contracts protected and honored and free from intrusions on privacy, to be free from vague, contradictory, duplicative, and unenforceable laws, and to freely transfer property.

176. As set forth above, Plaintiffs will be irreparably harmed by enforcement of the Ordinance.

177. Plaintiffs have no adequate remedy at law. Plaintiffs' injuries as a result of

enforcement of the Ordinance, including the Ordinance's civil and criminal penalty provisions, are not readily quantifiable or compensable in monetary damages.

WHEREFORE, Plaintiffs request that this Court enter a permanent injunction enjoining enforcement of the Ordinance and granting any further relief that this Court may deem just and proper.

RESERVATION OF FEDERAL RIGHTS

178. Plaintiffs, by pursuing the claims herein in the Courts of the State of Florida, reserve their right to the disposition of the entire case by the State Court, and preserves its access to a federal forum to assert its Federal Constitutional rights and rights under 42 U.S. Code §1983.

RESERVATION OF RIGHTS TO PURSUE CLAIMS UNDER THE BERT J. HARRIS, JR. PRIVATE PROPERTY RIGHTS PROTECTION ACT

179. Plaintiffs expressly reserve their rights to pursue claims under the Bert J. Harris, Jr. Private Property Rights Protection Act, Chapter 70 Fla. Stat.

Respectfully submitted this ___ day of _____, 2015.

HEEBNER, BAGGETT, UPCHURCH & GARTHE, P.L.

By: _____
PETER B. HEEBNER, ESQUIRE
Florida Bar No.: 173836
pheebner@lawdaytona.com
J. STEVEN GARTHE, ESQUIRE
Florida Bar No.: 35765
sgarthe@lawdaytona.com
523 North Halifax Avenue
Daytona Beach, FL 32118
(386) 255-1428
Attorneys for Plaintiffs

VERIFICATION

STATE OF FLORIDA
COUNTY OF FLAGLER

I, Stephen E. Milo, having been duly sworn under oath, hereby attest that the matters stated in the above Verified Complaint for Declaratory and Injunctive Relief are, to my personal knowledge, true and correct.

30 CINNAMON BEACH WAY, LLC

_____
By: Authorized Member,
STEPHEN E. MILO

Sworn to and subscribed before me this ____ day of March, 2015, by Stephen E. Milo, who is personally known to me or produced the following identification: _____.

(Notary Seal)

_____
Notary Public, State of Florida

STATE OF FLORIDA
COUNTY OF FLAGLER

I, Stephen E. Milo, having been duly sworn under oath, hereby attest that the matters stated in the above Verified Complaint for Declaratory and Injunctive Relief are, to my personal knowledge, true and correct.

VACATION RENTAL PROS PROPERTY MANAGEMENT, LLC

_____
By: Authorized Member,
STEPHEN E. MILO

Sworn to and subscribed before me this ____ day of March, 2015, by Stephen E. Milo, who is personally known to me or produced the following identification: _____.

(Notary Seal)

_____
Notary Public, State of Florida