

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA**

ANTHONY F. DEFILLIPO,
In his Official Capacity as Mayor,
North Miami Beach, Florida,

Case No.: 2023-CA-000618-1

Plaintiff/Counter-Defendant,

vs.

CITY OF NORTH MIAMI BEACH,
Defendant/Counter-Plaintiff.

**NORTH DADE NEIGHBORS ALLIANCE, INC. AND JEAN JEAN-LOUIS'
MOTION TO INTERVENE**

Pursuant to section 86.091, Florida Statutes, Florida Rule of Civil Procedure 1.230 and City of North Miami Beach's Citizens' Bill of Rights, the North Dade Neighbors Alliance, Inc. and Pastor Jean Jean-Louis, a citizen of the City of North Miami Beach (together, Neighbors Alliance) moves to intervene in this proceeding in support of the City of North Miami Beach (City) to enforce its residency requirements under City Ordinance Section 7-5(d) that caused Mayor Anthony F. DeFillipo (Mr. DeFillipo to have "automatically vacated and forfeited" his office after moving to Davie, FL.

BACKGROUND

1. Public corruption is a serious and ongoing concern in North Miami Beach. The previous two elected mayors and an elected commissioner were indicted and removed from office.¹

¹ "But it wouldn't be entirely fair to single out Pierre, because the entire North Miami Beach government seems to exist only as a machine that destroys public services and gets people arrested. The city's past two mayors — Myron Rosner and George Vallejo — faced criminal charges." <https://www.miaminewtimes.com/news/north-miami-beach-commissioner-frantz-pierre-arrested-on-bribery-charges-10562568>

2. Mr. DeFillipo has a history of making incendiary and racially-motivated statements toward his colleagues when he did not get his way on city matters which caused him to be formally censured by the City commission.²
3. Mr. DeFillipo admitted to voting conflicts regarding the real estate business he had with developers applying for zoning approvals with the City.³ Mr. DeFillipo was the inspiration of a new City ethics rule to prevent City officials and employees from exploiting their positions for real estate business that depended on City approvals to earn commissions.⁴
4. On or about November 13, 2022, public speculation arose that Mr. DeFillipo hid his move to the town of Davie, Florida in neighboring Broward County.⁵
5. On or about November 17, 2022, North Dade Neighbors Alliance, Inc., a Florida non-profit corporation with members including City of North Miami Beach citizens, hired counsel to investigate the allegations of Mr. DeFillipo's residency violation. Investigator

² "On May 23, the other members of the city commission, including three Haitian-American politicians, voted to censure DeFillipo after he wrote on Facebook that he believed North Miami Beach had fired its former city clerk so the city's Haitian lawmakers could "put in a person of there [sic] own heritage and do what they want!!!" <https://www.miaminewtimes.com/news/north-miami-beach-mayor-tony-defillipo-reprimanded-for-racist-haitian-post-11189806>

³ "You advise that you were engaged in your private employment as a real estate broker in the sale of the parcel that is at issue in the Resolution. In that transaction, you represented the seller who paid your broker's fee on behalf of the buyer. The buyer is the current applicant seeking the non-use variances and site approval plan in the Resolution." <https://ethics.miamidade.gov/library/inquiry-2021/21-69-defillipo.pdf>

⁴ "You advise that you are regularly engaged in your private employment as a real estate broker. You refer to this employment as your livelihood. The North Miami Beach Commission will be considering an amendment to the North Miami Beach Code of Ethics that seeks to proscribe a municipal elected official from being compensated as a real estate broker in the sale of property if the sale is contingent on the approval of the Commission or other municipal board for development purposes. Contingent is defined as presentation for review by the Commission or other board within a year of the sale of the property." <https://ethics.miamidade.gov/library/inquiry-2022/22-15-DeFillipo.pdf>

⁵ On November 13, 2022, an article titled *Is Mayor Anthony Defillipo pretending to live in NMB?* was published stating "At the end of last year, Mayor Defillipo sold his home of 14 years and in August of this year he purchased a home in Davie, a town in another county for \$1.2 million cash." <https://www.nmbtruth.com/post/is-mayor-anthony-defillipo-pretending-to-live-in-nmb>

Kennedy Rosario through Countywide Investigations conducted an investigation and concluded that Mr. DeFillipo is residing in Davie, FL in violation of the City Charter and Code.⁶

6. Kennedy Rosario is an investigator with more than 30 years of experience with the Miami-Dade Police Department and the Miami-Dade County Commission of Ethics and Public Trust. His experience investigating public corruption was pivotal in the prosecution of former North Miami Beach Mayor Myron Rosner and it was crucial in this investigation.⁷

7. On or about December 23, 2022, North Dade Neighbors Alliance, Inc. sent a letter to the City of North Miami Beach sharing the investigation conclusion that “Anthony DeFillipo failed to maintain his residency in the City of North Miami Beach as required by its Charter and Code of Ordinances” and “Absent a response and compliance by the City with its Charter and Code of Ordinances, we may proceed with legal action without further notice. In the event the City seeks judicial review regarding DeFillipo’s eligibility, NDNA reserves the right to move to intervene on behalf of NDNA.” See Exhibit A.

8. On or about January 13, 2023, the City published the City Attorney’s “Formal Recognition of Vacancy” based on the “Residency Memorandum” concluding the City’s mayoral office was vacant and no longer held by Mr. DeFillipo (Counter-Compl. ¶ 56-60, Exhibit “T” and “U”).

⁶ “We did see the mayor was living there with his family... Enough days gave us the conclusion he was living there,” said Rosario. <https://www.cbsnews.com/miami/news/north-miami-beach-mayor-anthony-defillipo-faces-allegations-he-does-not-live-in-city-he-represents/>

⁷ “Myron might have gotten away with his crimes if it weren’t for the diligence and determination of the unstoppable team of Miami-Dade Ethics Commission Investigator Kennedy Rosario and Miami-Dade Police Department Detective Luis Rodriguez, who presented their Statement of Facts in Support of Arrest Warrant to the Broward County State Attorney, and the rest is history.” <https://www.votersopinion.com/2022/04/19/thanks-for-the-memories-a-stroll-down-nmbs-corruption-hall-of-shame-and-a-sneak-peek-at-its-newest-inductee/>

9. On or about January 17, 2023, Mr. DeFillipo filed this action requesting this honorable court provide him a special City commission meeting where he can repeal the City's residency requirements in order to resolve his residency violation.

10. On or about January 20, 2023, City filed a Motion to Dismiss, Response and Counter-Claim challenging Mr. DeFillipo's claims stating "DeFillipo does not currently hold the office of mayor but is actively holding himself out as mayor and purporting to conduct City business in that capacity." (Counter-Compl. ¶ 63). Additionally, the City states "DeFillipo is attempting to schedule a meeting to procure the votes necessary to terminate the City Attorney as retaliation for issuing the Formal Resignation of Vacancy." (Counter-Compl. ¶ 64).

11. City asks this Court to (1) dismiss Mr. DeFillipo's Complaint; (2) deny Mr. DeFillipo's Emergency Motion for Injunctive Relief; (3) declare that based on the plain reading of the NMB Charter and Code of Ordinance that Mr. DeFillipo "automatically vacated and forfeited" the office of mayor allowing the City to fill the vacancy; and (4) enter an injunction prohibiting Mr. DeFillipo from (i) representing, saying, or implying that he is the City's active, sitting mayor and (ii) attempting to, purporting to, or actually exercising any of the rights, obligations, or authority that is reserved for the holder of the sitting mayor.

INTERVENTION STANDARD

12. In declaratory judgment actions brought under chapter 86, Florida Statutes, "all persons may be made parties who have or claim any interest which would be affected by the declaration." § 86.091, Fla. Stat. Intervention in circuit court proceedings should be "liberally allowed." *Nat'l Wildlife Fed'n, Inc. v. Glisson*, 531 So. 2d 996, 998 (Fla. 1st DCA

1988) (citing *Miracle House Corp. v. Haige*, 96 So. 2d 417, 418 (Fla. 1957)). Florida Rule of Civil Procedure 1.230 provides that “[a]nyone claiming an interest in pending litigation may at any time be permitted to assert a right by intervention.”

13. Florida courts apply a two-step test regarding intervention. First, the court must determine whether the party seeking to intervene has asserted an appropriate interest to support intervention. *Union Cent. Life Ins. Co. v. Carlisle*, 593 So. 2d 505, 507 (Fla. 1992). Next, the Court must determine the parameters of the intervention. *Id.* at 508.

ARGUMENT

14. Neighbors Alliance readily satisfies these intervention standards. Neighbors Alliance is an organization supported by members throughout North Miami-Dade County, with members who are citizens of the city of North Miami Beach. Neighbors Alliance has an interest in the outcome of this proceeding for determination of Mr. DeFillipo’s standing based on a false claim to the office of mayor of the City of North Miami Beach and his emergency request for injunctive relief to thwart the public’s important protections in the City’s Charter. Neighbor’s Alliance has an interest in the outcome of this proceeding because Mr. DeFillipo has made false claims to the office of the mayor of the City of North Miami Beach. Neighbors Alliance is directly impacted because Mr. DeFillipo’s request for injunctive relief seeks to thwart the public’s important protections in the City’s Charter based on his false claims.

15. Neighbors Alliance has standing to intervene in order to enforce the City of North Miami Beach’s Citizens’ Bill of Rights section A(2), which states:

Truth in government. No municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.

16. Furthermore, the City of North Miami Beach's Citizens' Bill of Rights section B states:

The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the City of North Miami Beach. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the City. The orderly, efficient and fair operation of government requires the knowledgeable participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives and for individual citizens to grant respect for the dignity of public office.

17. This court is authorized to grant the recovery of costs and order the removal of a public official for violating the City of North Miami Beach's Citizens' Bill of Rights section C which states:

In any suit by a citizen alleging a violation of this Bill of Rights filed in the Miami-Dade County circuit court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the court. Any public official or employee who is found by the court to have willfully violated this article shall forthwith forfeit his office or employment.

18. Neighbors Alliance is also mentioned by the City's pleadings as the "someone" who hired investigators to look into the matter of the residency allegations of Mr. DeFillipo. (Counter-Compl. ¶ 49). The Neighbors Alliance's investigation is also referenced in the City's "Residency Memorandum" (Counter-Compl. ¶ 56).

19. Neighbors Alliance has an interest in this litigation, which presents a question of constitutional interpretation. "[T]he fundamental object to be sought in construing a constitutional provision is to ascertain the intent of the framers and the provision must be construed or interpreted in such manner as to fulfill the intent of the people, never to

defeat it.” See generally *Browning v. Fla. Hometown Democracy, Inc. PAC*, 29 So. 3d 1053, 1062 (Fla. 2010) (citation and quotations omitted).

20. Plaintiff asks this Court to rewrite City Ordinance Section 7-5(d) on an “emergency” basis now to circumvent existing law and upend the City Charter and Code of Ordinances by recognizing Mr. DeFillipo as the legal mayor despite having failed to maintain his residency in the city so he can have an opportunity to change the City’s residency requirements or terminate the City Attorney as retaliation. (Counter-Compl. ¶ 64). Plaintiff’s dissatisfaction with the City Ordinance Section 7-5(d) is properly addressed to the City commission or the voters, not to this Court. Neighbors Alliance has an interest in ensuring the laws of the City are followed and that policy matters related to existing laws are addressed in the legislative process.

21. No party will be prejudiced by Neighbors Alliance’s intervention in this proceeding as a full party. Nor will the proceeding be delayed. Indeed, this proceeding has only just begun—Mr. DeFillipo’s complaint was filed last week on January 17, 2023. The existing parties have not filed all responsive pleadings nor has any discovery been served. Thus, the Neighbors Alliance’s motion to intervene is timely and should be granted without restriction. *Cf. Nat’l Wildlife Fed’n*, 531 So. 2d at 998 (permitting intervention when “[d]iscovery was still underway and the pleadings had not yet closed”).

22. The undersigned counsel has contacted counsel for the City of North Miami Beach and Mr. DeFillipo regarding this Motion to Intervene and is authorized to represent that the City of North Miami Beach supports while Mr. DeFillipo opposes Neighbors Alliance’s intervention in this proceeding.

WHEREFORE, Neighbors Alliance respectfully requests an order permitting the Neighbors Alliance to intervene in this proceeding without limitation and to respond to Mr. DeFillipo's Complaint within 20 days of the order granting this motion.

Respectfully submitted,

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Inc. and Jean Jean-Louis*

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served by email on all counsel of record via the e-filing portal.

/s/ Mark St. Vil
Attorney