

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT,
IN AND FOR ALACHUA COUNTY, FLORIDA

ALACHUA COUNTY, FLORIDA,
a charter county and political subdivision
of the State of Florida,

Plaintiff,

v.

Case No.:

Division:

City of Gainesville, Florida,
a Florida municipal corporation,

Defendant.

_____ /

**Complaint for Recovery of Real Property and
Motion for Emergency Injunction to Prevent Spoliation of Evidence**

COMES NOW, the Plaintiff, ALACHUA COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida (“Alachua County”), and sues the Defendant, CITY OF GAINESVILLE, a Florida municipal corporation (“City”), and alleges:

1. This is an action to recover possession of real property in Alachua County, Florida.
2. CITY is in possession of the following subject real property in the county: the parcel known as Alachua County Tax Parcel #16005-000-000 (“Subject Real Property”), to which the Plaintiff claims title by virtue of that deed from Alachua County to the City of Gainesville executed on October 3, 1981, and recorded on January 7, 1983 in Alachua County Official Records Book 1457, Page 108. A copy of the deed is attached hereto and incorporated herein as Exhibit “A” to this Complaint.
3. According to the terms of the deed, the title to the subject real property immediately reverted to the Plaintiff upon the Defendant ceasing to use the property in the operation of

a regional transit system.

4. The Gainesville Regional Transit System (“Gainesville RTS”), formerly Alachua County Regional Transit System, is a department/division of CITY.
5. Gainesville RTS began its operation of the County’s transit system upon transfer of the improved Subject Real Property, personnel, fleet and personal property from ALACHUA COUNTY to CITY in or about October 1981.
6. Between November 19 and 20, 2014, Gainesville RTS Administration moved into its newly constructed facility located at 34 SE 13th Road, Gainesville, Florida (“Current Facility”).
7. By the end of December 2014, Gainesville RTS Operations and Maintenance staff moved to its Current Facility.
8. In or about January 2015, CITY ceased using the Subject Real Property as the location for Gainesville RTS.
9. In or about January 2015, the Subject Real Property reverted to ALACHUA COUNTY by operation of law.
10. Upon demand, CITY has failed to deliver possession of the Subject Real property to ALACHUA COUNTY.
11. ALACHUA COUNTY is required, pursuant to the Florida Governmental Conflict Resolution Act, Sections 164.101-164.1061, Florida Statutes, (“Act”) to comply with its requirements prior to proceeding with litigation unless, by a three-fourths vote of its governing body, there is a finding that “significant legal rights will be compromised if a

court proceeding does not take place before the provisions of this act are complied with.”

12. On April 22, 2016, ALACHUA COUNTY’s governing body unanimously approved the immediate filing of this action.

Motion for Emergency Injunction to Prevent Spoliation of Evidence

1. ALACHUA COUNTY moves for an emergency injunction to prevent spoliation of evidence.
2. “Spoliation is the destruction or significant alteration of evidence, or the failure to preserve property for another's use as evidence in pending or reasonably foreseeable litigation.” Graff v. Baja Marine Corp., 310 F. App'x 298, 301 (11th Cir. 2009) (*quoting* West v. Goodyear Tire & Rubber Co., 167 F.3d 776, 779 (2d Cir.1999)).
3. On or about April 18, 2016, ALACHUA COUNTY’s representatives inspected the Subject Real Property and found the following:
 - a. Portions of the property were overgrown by vegetation;
 - b. Two of the buildings on the property were unlocked;
 - c. A third building was empty except for stacked furniture, filing cabinets, and white goods;
 - d. At least one set of restrooms in the buildings was unusable due to storage of office items and a refrigerator;
 - e. The carcass of bat was on the floor of one building and a live snake was found directly outside of one of the buildings;
 - f. The third building was occupied by two of CITY’s employees, one of whom explained to the ALACHUA COUNTY’s representatives that they were on-site solely for the

- purpose of labeling and otherwise preparing surplus items for disposal;
- g. The parking lot was empty during normal government business hours except for the 2 CITY employees preparing surplus items for disposition; and
 - h. One of the buildings contained a room with what appeared to be a closed circuit television camera security system with recording capacity.
4. On or about April 19, 2016, ALACHUA COUNTY notified CITY in writing that it was the owner of the Subject Real Property.
 5. On or about April 20, 2016, ALACHUA COUNTY's representatives observed several CITY personnel entering and exiting buildings on site.
 6. On or about April 20, 2016, ALACHUA COUNTY was informed by a representative of CITY that the Subject Real Property had not reverted, stating Gainesville RTS was continuing to operate on the Subject Real Property.
 7. Any alteration to the use of the Subject Real Property will irreparably injure ALACHUA COUNTY by preventing it from gathering accurate evidence to support its claim that CITY ceased using the Subject Real Property for the operation of a regional transit system and the property reverted to ALACHUA COUNTY. The current status of the Subject Real Property as it existed on April 18, 2016, inclusive of the use of the improvements located thereon, is relevant to this litigation and must be preserved from spoliation.
 8. CITY has security cameras with recording capacity monitoring the Subject Real Property where it formerly operated a regional transit system. The recordings created by these security cameras may be exempt from a public records request but will be subject to discovery.

9. CITY likely has security cameras with recording capacity monitoring its Current Facility where it operates the regional transit system. The recordings created by these security cameras may be exempt from a public records request but will be subject to discovery.
10. Security cameras typically record, and then automatically erase video records after a pre-determined amount of time.
11. CITY's current and prior activities relating to the operation of the regional transit system, at both the Subject Real Property and Current Facility, as recorded by security cameras, are relevant to this litigation and must be preserved from spoliation.
12. Pursuant to Section 164.1041(2), Florida Statutes, significant legal rights of ALACHUA COUNTY will be compromised if a court proceeding does not take place to prevent spoliation of evidence before the provisions of the Act are complied with.
13. Upon determination of ALACHUA COUNTY's Motion as set forth herein, ALACHUA COUNTY will request a stay of these proceedings pursuant to the requirements of the Act.

WHEREFORE, the Plaintiff, ALACHUA COUNTY:

1. Requests this Court issue an immediate temporary injunction:
 - a. prohibiting CITY from altering the subject real property in any way, including moving any tangible personal property in or out of the buildings or to or from the area outside of the buildings;
 - b. requiring CITY to retain all footage currently in its possession from any security cameras that show any portion of the Subject Real Property;
 - c. requiring CITY to retain all footage currently in its possession from any security

cameras that show any portion of the Current Facility; and

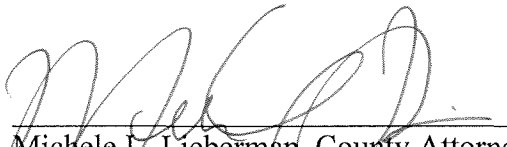
d. requiring CITY to preserve from spoliation any evidence relevant to this litigation;

AND

2. Demands possession of the Subject Real Property, damages against CITY, and any other remedy in law or equity deemed proper by this Court.

RESPECTFULLY SUBMITTED this 22nd day of April, 2016.

ALACHUA COUNTY ATTORNEY'S OFFICE



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Gainesville, Florida 32601
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mliberman@alachuacounty.us
CAO@alachuacounty.us
Attorney for Plaintiff Alachua County

D.E.S.D.

THIS DEED, made this 3rd day of October, A.D. 1981, by Alachua County, Florida, a political subdivision of the State of Florida, party of the first part, and the City of Gainesville, a Florida municipal corporation, party of the second part:

W I T N E S S E T H:

That the said party of the first part, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, to it in hand paid by the party of the second part, receipt of which is hereby acknowledged, has granted, bargained, and sold to the party of the second part, its successors and assigns forever, all such interest as the County may have in the following described land, lying and being in Alachua County to wit:

SEE ATTACHMENT "A".

This conveyance is subject to the interest of the United States Department of Transportation acquired under UMTA Grant No. FL-03-0024, and shall be disposed of pursuant to OMB Circular A-102 should this property ever revert to the party of the first part.

PROVIDED, HOWEVER, this land and the improvements thereon is deeded to the City of Gainesville, party of the second part, to be used in the operation of a regional transit system. This conveyance is made subject to and upon the express condition that, should the City of Gainesville, party of the second part, cease to use the foregoing land and improvements thereon, in the operation of a regional transit system, then and in that event, the title to said property shall immediately revert to Alachua County, Florida, party of the first part, subject to the interest of the United States Department of Transportation.

IN WITNESS WHEREOF, the party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairman of said Board, the day and year first above-written.

DOC. ST. - AMT \$0.45
A. CURTIS POWERS, Clerk of Circuit Court
Alachua County - by A. Curtis Powers

ALACHUA COUNTY, FLORIDA

By: Jack Durrance
Jack Durrance, Chairman
Board of County Commissioners

ATTEST:

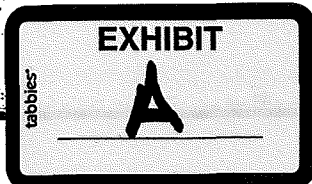
A. Curtis Powers
A. Curtis Powers, Clerk

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PREPARED BY
DENNIS R. WONG
ASSISTANT COUNTY ATTORNEY
POST OFFICE BOX 12032
GAINESVILLE, FL 32602



FILED
OCT 11 1981
CLERK OF CIRCUIT COURT
ALACHUA COUNTY
GAINESVILLE, FL

A tract of land situated in Sections 8 and 9, Township 10 South, Range 20 East, Alachua County, Florida, said tract of land being more particularly described as follows:

COMMENCE at the N.E. corner of the lot of land conveyed to Pearl Avera by A. Avera, Estelle Avera, and Drayton Avera, and run S 42 deg. 43 min. 08 sec. W, 230.00 feet to the point of beginning; thence continue S 42 deg. 43 min. 08 sec. W, 746.00 feet; thence run S 45 deg. 08 min. 56 sec. E, 220.50 feet; thence run N 68 deg. 39 min. 26 sec. E, 40.00 feet; thence run N 42 deg. 53 min. 00 sec. E, 611 feet; thence run N 23 deg. 10 min. 10 sec. W, 262.50 feet to the point of beginning, said tract of land containing 3.811 acres, more or less.

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APPROVED AS TO FORM
[Signature]
Alachua County Attorney

APPROVED AS TO CONTENT
[Signature]

ATTACHMENT "A"