

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

CASE NO. _____

DORAL COMMUNITY COALITION,
a Florida nonprofit organization, RICARDO CORA, individually,
NORBERTO SPANGARRO, individually, JOHN R. STEINBAUER JR.,
individually, SUI JIM, individually, JOSEF CORREA, individually, and
ODEL TORRES, individually,
Plaintiff,

MIAMI-DADE COUNTY,
a municipal Corporation authorized to do business in
the State of Florida,

Defendant,

_____ /

VERIFIED COMPLAINT FOR EMERGENCY INJUNCTIVE RELIEF

Plaintiffs, DORAL COMMUNITY COALITION, RICARDO CORA, NORBERTO SPANGARRO, JOHN R. STEINBAUER JR., SUI JIM, JOSEF CORREA, and ODEL TORRES (collectively, Plaintiffs) sue Defendant, MIAMI-DADE COUNTY, for Declaratory and Emergency Injunctive Relief because the County acted arbitrarily and capriciously and in violation of its own Code and Procedures in illegally voting on Resolution-728-22 (Non Agenda Item No. 15(F)(2)) that was not advertised in advance, and without giving the public an opportunity to comment. The County Commission voted on a non-action item preliminary report effectively terminating an ongoing study into the location of the new Waste-to-Energy ("WTE") facility and instead voted with no public input and no due process or notice to permanently locate the facility in Doral. This was a vote that will result in the expenditure of hundreds of millions of tax dollars and it was done with no notice and within less than two minutes, during a break, between Agenda items and based on a preliminary report that did not request action.

INTRODUCTION

In sum and substance, Plaintiffs are or represent residents of the City of Doral located in Miami-Dade County, Florida. On July 19, 2022, Agenda Item 2(B)(3) was placed on the Miami-Dade County Commission Meeting Agenda as a Report. Item 2(B)(3) referred to a Report drafted by Arcadis Consulting as a Preliminary Siting Alternatives Report. Despite Agenda Item 2(B)(3) being a Report and not an action item, Miami-Dade County Commissioners voted late in the day on Non-Agenda Item 15(F)(2), an item that was not placed on the Agenda and not advertised in advance in accordance with State law, the County Code, and other legal requirements. Non-Agenda Item 15(F)(2) proposed Resolution-728-22 for the purpose of authorizing and approving the selection of the existing resources recovery facility site, located in the City of Doral, as the site where to build a new WTE garbage incineration facility, which would affect the health and safety of Plaintiffs and other residents of the City of Doral. Shortly before the vote on Non-Agenda Item 15(F)(2) and with no chance to protest or give residents any opportunity to comment on the selection of this site, a County Commissioner rushed through the subject item on a voice vote, despite the fact that what was on the Agenda was a simple preliminary report that did not call for such a vote and was not advertised as an action item.

THE PARTIES

Plaintiff, DORAL COMMUNITY COALITION is a Florida not for profit corporation representing a coalition of residents residing in the City of Doral, located in Miami-Dade County, Florida.

Plaintiffs, RICARDO CORA, NORBERTO SPANGARRO, JOHN.R. STEINBAUER J.R., SUI JIM, JOSEF CORREA, and ODEL TORRES are residents of the City of Doral, located in Miami-Dade County, Florida.

Defendant MIAMI-DADE COUNTY ("County") is a Florida government entity located in Miami-Dade County, Florida.

JURISDICTION AND STANDING

This is an action for declaratory and injunctive relief; therefore, this Court has subject matter jurisdiction pursuant to §§ 26.012(2)(c) and 86.011, Fla. Stat. Additionally, this is also an action for damages in excess of \$30,000, exclusive of attorneys' fees, costs, and interest; therefore, this Court has subject matter jurisdiction pursuant to § 26.012(2)(a), Fla. Stat. Plaintiffs are residents in the City of Doral, which is located in Miami-Dade County, Florida, and are interested parties with standing to pursue this action.

VENUE

Plaintiffs' causes of actions all accrued in Miami-Dade County, Florida. Therefore, venue is proper in this Court pursuant to §47.011, Fla. Statutes.

FACTS

1. Plaintiffs are residents of the City of Doral, whose health and safety are directly affected by the Miami Dade County decision to build a new WTE garbage incineration facility in the City of Doral.
2. Miami-Dade County is a State entity that operates the County government.
3. On July 19, 2022, with no prior discussion and no item scheduled for either public comment or for a Commission vote, the County Mayor placed on the meeting Agenda a mere preliminary Report which was listed as Agenda Item 2(B)(3) and is attached hereto as Exhibit "A";
4. The preliminary Report, attached hereto as Exhibit "B", described a County-sponsored

- desktop/draft evaluation as to potential sites where to place a new WTE facility with enormous quality of life and public health and safety impacts on surrounding communities.
5. The preliminary Report was a progress report heavily funded by Miami-Dade County taxpayers, costing over \$250,000, that described future study efforts and public engagement efforts to ensure the right decision over where to build the new WTE garbage incineration facility.
 6. Miami-Dade County violated its own Code of Ordinances Rule 5.05, which does not permit voting on items merely set for a *report*. The Ordinance states, "The commission shall not take action upon any matter when it is first presented to the Commission in a report or reports made by the County Commissioners."
 7. There was no notice to the public, fellow Commissioners, or the County Mayor that a vote was to take place, the latter being essential under the Florida Sunshine Law, the County Code, the Citizens' Bill of Rights, and Florida Statute 286.011(1), which requires and provides the public with the right to notice of any items up for a vote.
 8. Despite the Commission's lack of authority to take action on the matter, Commissioner Jose "Pepe" Diaz ("Commissioner Diaz") had surreptitiously pre-prepared in advance Resolution-728-22, attached hereto as Exhibit "C", that was not advertised.
 9. Commissioner Diaz had pulled the item in the morning, designated as Agenda Item 2(B)(3), only to receive it as a County Report. But then, right before a hearing on the County Budget, in a matter of seconds, and hours into the meeting, the Commission took an unscheduled voice vote of Commissioner Diaz's Resolution-728-22. Although the latter was neither advertised nor available for review, it nonetheless approved the City of Doral as the site for a new WTE garbage incineration facility. This Resolution and its language had not been seen by anyone

until after Commissioner Diaz took this approximately five-second voice vote on one of the most important public health issues ever to come before County.

10. This illegal vote violated Florida Statute Chapter 286.011, both the State's and County's Citizens' Bill of Rights, as well as the County Code and Rules and Procedures.

COUNT I

DECLARATORY RELIEF

11. Plaintiff re-alleges Paragraphs 1 through 10.
12. This is an action for declaratory relief.
13. Declaratory relief is proper under § 86.021, Fla. Stat. because a controversy exists as to whether the County's handling of the approval of this Resolution was arbitrary and in accordance with the law.
14. There is an actual, definite, concrete, and substantial controversy as to the existence or nonexistence of a power, privilege, or right, which does or may depend on whether such power, privilege, or right now exists and such controversy requires an immediate determination as to whether the County's handling of this Resolution was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.
15. Declaratory relief is appropriate here because such judgment will serve a useful purpose in declaring whether the voting process on the Resolution was done in violation of the law.
16. Declaratory relief will terminate and afford relief of uncertainty, insecurity, and controversy concerning the parties' rights.
17. Declaratory relief is appropriate because all the adverse and antagonistic interests are before the Court.

WHEREFORE, Plaintiffs DORAL COMMUNITY COALITION, RICARDO CORA, NORBERTO SPANGARRO, JOHN R. STEINBAUER J.R., SUI JIM, JOSEF CORREA, and

ODEL TORRES asks the Court to enter a declaratory judgment against Defendant, MIAMI-DADE COUNTY, which declares as follows:

- a. The vote to approve the site which places the Waste-to-Energy facility in the City of Doral violated Section 5.05 of the County's Rules of Procedure, State Law and the Rights of the Plaintiffs and other residents to receive adequate notice and a right to be heard.
- b. All other Declarations and relief the Court sees fit.
- c. Plaintiffs also demand an award of all costs and fees incurred in this action and asks the Court for all further relief the Court deems fit.

COUNT II

INJUNCTIVE RELIEF

18. Plaintiff re-alleges Paragraphs 1 through 17.
19. This is an action for injunctive relief.
20. Plaintiffs have a clear legal right to have the County follow State law, the County Code, the Citizens' Bill of Rights, and established Rules and Procedures before presenting and passing legislation affecting the health, safety, and well-being of its residents.
21. The County's handling and approval of Resolution-728-22 is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.
22. Plaintiffs will be irreparably harmed if an injunction is not entered because they will have no adequate remedy at law for being arbitrarily, capriciously, and otherwise unlawfully deprived of their health and safety should the proposed Waste-to-Energy garbage incineration facility were to open in the City of Doral.

23. The public interest will not be harmed if an injunction is entered. To the contrary, an injunction that requires the County to comply with the law will serve the public interest.

WHEREFORE, Plaintiffs DORAL COMMUNITY COALITION, RICARDO CORA, NORBERTO SPANGARRO, JOHN R. STEINBAUER J.R., SUI JIM, JOSEF CORREA, and ODEL TORRES asks the Court to enter an injunction against Defendant, MIAMI-DADE COUNTY which:

- a) Enjoins the County from proceeding with the proposed building of a new Waste-to-Energy garbage incineration facility in the City of Doral;
- b) Enjoins the County and its respective agents, employees, and officers from taking any action which undermines the relief granted in the injunction; and
- c) Provides all further relief the Court deems fit.

VERIFICATION

Pursuant to 29 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States that the foregoing facts are true and correct.

Executed in Miami-Dade County this 7th day of September, 2022.

DocuSigned by:

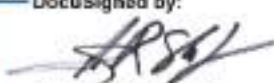
 4EE0E0B5342455...
 Doral Community Coalition

DocuSigned by:

 4EE0E0B5342455...
 Ricardo Cora

DocuSigned by:

 08800E4E35AE47E...
 Norberto Spangaro

DocuSigned by:

A80DC01824F141D
John R. Steinbauer Jr.

DocuSigned by:

FF47A91DD9924EA
Sui Jim

DocuSigned by:

8AA1D0ED1584403
Josef Correa

DocuSigned by:

CD697D934158449
Odel Torres

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th day of September, 2022, we electronically filed the foregoing document with the Clerk of the Court using Florida Courts E-Filing Portal. We also certify that the foregoing document is being served this day on all counsel of record or pro se parties in the manner specified, either via transmission of Notices of Electronic Filing generated by Florida Court e-Filing Portal or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Respectfully Submitted,

PETKOVICH LAW FIRM, P.A.

Attorneys for Petitioner/Father

113 Almeria Avenue

Coral Gables, FL 33134

Telephone: (305) 358-8003

Fax: (305) 675-0503

By: /s/ Ivette Gonzalez-Petkovich

Ivette Gonzalez-Petkovich, Esq.

Florida Bar No. 17993

E-Mail: Ivette@PetkovichLawFirm.com

By: /s/ Kenny F. Kuhl

Kenny F. Kuhl, Esq.

Florida Bar No. 075639

E-Mail: Kenny@PetkovichLawFirm.com