

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION

HOMES NOT HOTELS, INC.,
a Florida not for profit corporation,

Plaintiff,

vs.

Case No. 25-000615-CI

CITY OF INDIAN ROCKS BEACH,
a municipality of the State of Florida,

Defendant.

**AMENDED VERIFIED COMPLAINT FOR
WRIT OF MANDAMUS & INJUNCTIVE RELIEF
REGARDING 1,168 ILLEGALLY LICENSED TRANSIENT PUBLIC LODGINGS**

Plaintiff, HOMES NOT HOTELS, INC. ("Plaintiff"), by and through undersigned counsel, files this Amended Complaint for Writ of Mandamus and Injunctive Relief against Defendant, City of Indian Rocks Beach ("IRB") and states:

INTRODUCTION

1. This is an action seeking a writ of mandamus and injunctive relief to compel IRB to fulfill its clear, nondiscretionary, ministerial duty to enforce compliance with Section 69A-43.018, Florida Admin. Code, Sections 509.215 and 553.895, Florida Statutes, and Chapter 18 Section V, City of Indian Rocks Beach Code, as it relates to at least 317 illegally licensed transient public lodging establishments, including structures of three-stories or more, located within incorporated areas of IRB.

2. Since filing its initial Complaint on February 10, 2025, Plaintiff discovered an additional 883 illegally licensed transient public lodging establishments which lack current fire safety inspection reports; bringing the grand total to 1,168 illegally licensed STRs in IRB.

Furthermore, Plaintiff discovered 815 transient public lodging establishments in IRB—that are registered with the State of Florida—lack requisite IRB licensing. Plaintiff consequently files this Amended Complaint in support of the same.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to: (a) Art. V, §5(b), Fla. Const. and Rule 1.630, Fla. R. Civ. P. Notably, Article V, § 5(b) of the Florida Constitution which provides that Circuit Courts have the power to issue writs of mandamus as part of its original jurisdiction; and (b) Chapter 86, *Florida Statutes*, which provides that an action for declaratory relief is within the subject matter jurisdiction of this Court.

4. This Court has personal jurisdiction over IRB pursuant to Section 48.193, *Florida Statutes*, because IRB maintains its headquarters and principal place of business within Pinellas County, Florida.

5. Venue is proper in Pinellas County pursuant to Section 47.011, *Florida Statutes*, because all facts giving rise to this action accrued in Pinellas County, Florida, wherein IRB and the properties at issue are located.

6. All conditions precedent to the filing of this action, if any, have been met, have been waived, or would be futile.

PARTIES

7. Plaintiff is a not for profit corporation that is organized and existing under the laws of the State of Florida. Plaintiff's principal place of operation is within IRB of Indian Rocks Beach ("IRB"). Plaintiff is comprised of concerned IRB residents and community members who are dedicated to maintaining the orderly and safe nature of IRB.

8. IRB is a state-chartered municipality in the State of Florida. IRB is responsible for, *inter alia*, adopting, administering, and enforcing a comprehensive regulatory scheme regarding the operation vacation rentals within IRB. *See* IRB Ordinance No. 2023-02.

9. As a subdivision of the State, IRB is assigned the duties and responsibilities of protecting the public health, safety, and welfare of IRB's residents and visitors by enforcing public lodging establishments' compliance with Section 69A-43.018, Florida Admin. Code, Sections 509.215 and 553.895, *Florida Statutes*, Chapter 18 Art. V, *City of Indian Rocks Beach Code*, and other applicable statutes, codes, and ordinances regulating transient public lodgings also known as short-term rentals (both of which terms are defined *infra*).

10. Accordingly, IRB acknowledges that its ongoing "regulation of vacation rentals [] contribute[s] to the stability of IRB's existing residential neighborhoods as well as the health, safety, and welfare of IRB's residents and guests" since "transient occupants of vacation rentals, due to their transient nature, are typically not familiar with local surroundings, local code restrictions, local weather disturbances, local hurricane evacuation plans, and means of egress from the vacation rentals in which they are staying, thereby increasing potential risks to themselves and their families, and putting an additional burden on, and potentially putting at risk, emergency personnel in the event of an emergency situation." IRB Ordinance No. 2023-02, *3; attached hereto as **Exhibit "A."**

STATEMENT OF FACTS

11. The number of short-term rentals (STRs) in Pinellas County has mushroomed as increased numbers of vacationers flock to Tampa Bay. STRs are commonly listed on peer-to-peer internet platforms offering vacation rentals to transient occupants – like Airbnb or Vrbo.

12. Licensed primarily through the Florida Department of Business and Professional Regulation under Chapter 509 of *Florida Statutes*, STRs are “transient public lodging establishments” pursuant to Section 509.013(4)(a)(1), *Florida Statutes*.

13. Section 509.013(4)(a)(1), *Florida Statutes*, unambiguously defines a “transient public lodging establishment” as:

[A]ny unit, group of units, dwelling, building, or group of buildings within a single complex of buildings 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 or held out to the public as a place regularly rented to guests.

A. STRs in IRB must comply with Florida statutory fire safety requirements and IRB Code.

14. IRB is no exception to the STR boom and has taken additional steps to protect the health and safety of residents and visitors alike. The enactment of IRB Ordinance No. 2018-01 as amended by IRB Ordinance No. 2023-02, *inter alia*, standardized local regulation of STRs as commercial, non-residential business that operate as vacation rentals requiring separate registration with IRB. *See* Sec. 18-204, IRB Code; attached hereto in **Exhibit “A.”**

15. Section 18-217(a), IRB Code, provides that applicable fire safety codes apply to STRs in IRB, stating that:

Each vacation rental shall comply with all requirements and standards under state law, including the applicable provisions of the most recently adopted version of the Florida Building Code, the Florida Administrative Code, the Florida Swimming Pool Safety Act, and *the Florida Fire Prevention Code*.

(Emphasis added; attached hereto in **Exhibit “A.”**)

16. Thus, unless special exception applies, all transient public lodging establishments in IRB must comply with the fire safety requirements outlined in Section 69A-43.018, *Florida Admin. Code*, and Sections 509.215 and 553.895, *Florida Statutes*.

17. Section 69A-43.018, F.A.C., attached hereto as **Exhibit “B,”** plainly outlines that:

[H]omes licensed as public lodging establishments as defined in Section 509.013(4)(a), F.S. ... shall comply with Chapter 24, One-Family and Two-Family Dwellings, of NFPA 101, Life Safety Code, as adopted in Chapter 69A-3, F.A.C., and incorporated by reference therein.

18. Additionally, for STRs of at least three-stories tall, Section 509.215(1), F.S., unequivocally requires that:

Any:

(a) Public lodging establishment ...which is of three stories or more and for which the construction contract has been let after September 30, 1983, with interior corridors which do not have direct access from the guest area to exterior means of egress, or

(b) Building over 75 feet in height that has direct access from the guest area to exterior means of egress and for which the construction contract has been let after September 30, 1983,

shall be equipped with an automatic sprinkler system installed in compliance with the provisions prescribed in the National Fire Protection Association publication NFPA No. 13 "Standards for the Installation of Sprinkler Systems."... Each guest room *shall be equipped with an approved listed single-station smoke detector meeting the minimum requirements of NFPA-74* "Standards for the Installation, Maintenance and Use of Household Fire Warning Equipment," powered from the building electrical service, notwithstanding the number of stories in the structure or type or means of egress, if the contract for construction is let after September 30, 1983.

(Emphasis added; attached hereto as **Exhibit "C."**)

19. Section 509.215(2), F.S., similarly requires fire safety compliance, stating:

Any public lodging establishment, as defined in this chapter, which is of three stories or more and for which the construction contract was let before October 1, 1983, *shall be equipped with:*

(a) *A system which complies with subsection (1);*
or

(b) *An approved sprinkler system* for all interior corridors, public areas, storage rooms, closets, kitchen areas, and laundry rooms, less individual guest rooms, if the following conditions are met:

1. There is a minimum 1-hour separation between each guest room and between each guest room and a corridor.

2. The building is constructed of noncombustible materials.
3. The egress conditions meet the requirements of s. 5-3 of the Life Safety Code, NFPA 101.
4. The building has a complete automatic fire detection system which meets the requirements of NFPA-72A and NFPA-72E, including smoke detectors in each guest room individually annunciating to a panel at a supervised location.

(Emphasis added; attached hereto as **Exhibit "D."**)

20. Section 553.895(1) likewise requires that:

Any transient public lodging establishment, as defined in chapter 509 and used primarily for transient occupancy...which is of three stories or more and for which the construction contract has been let after September 30, 1983, with interior corridors which do not have direct access from the guest area to exterior means of egress and on buildings over 75 feet in height that have direct access from the guest area to exterior means of egress and for which the construction contract has been let after September 30, 1983, *shall be equipped with an automatic sprinkler system* installed in compliance with the provisions prescribed in the National Fire Protection Association publication NFPA No. 13 (1985), "Standards for the Installation of Sprinkler Systems." Each guest room and each timeshare unit *shall be equipped with an approved listed single-station smoke detector meeting the minimum requirements of NFPA 74 (1984)* "Standards for the Installation, Maintenance and Use of Household Fire Warning Equipment," powered from the building electrical service, notwithstanding the number of stories in the structure, if the contract for construction is let after September 30, 1983...

(Emphasis added; attached hereto as **Exhibit "E."**)

21. Section 18-210 (a), *City of Indian Rocks Beach Code*, further places a clear, nondiscretionary, ministerial duty upon IRB to either inspect or verify inspection for compliance with fire safety regulations, stating:

Inspection Required. To verify compliance with the latest adopted edition of the Florida Building Code and Florida Fire Prevention Code, to the extent applicable to a vacation rental property, and to verify the interior and exterior plans submitted with the application accurately depict the conditions on and in the property, and to ensure all required safety equipment such as fire extinguisher and required postings are properly installed, and to verify the guest conduct information is properly displayed, each vacation rental shall, in conjunction with its initial or annual renewal application, be inspected by IRB's code inspector, a representative of fire district servicing IRB and, to the extent necessary, IRB's building official or designated agent thereof.

IRB will endeavor to coordinate an inspection date with the owner and complete the inspection process prior to the expiration of an existing registration period.

(Emphasis in original; attached as **Exhibit "F."**)

22. In the event of a STR's noncompliance with fire safety regulation, Section 18-210

(b) states:

Code Compliance Violations. If instances of noncompliance are discovered during or as a result of an inspection, all such instances of noncompliance shall be handled either as violations of the applicable provisions of the most recently adopted version of the Florida Building Code, or Florida Fire Prevention Code are otherwise handled by IRB and its officials under state law and city code, including but not limited to referral to the Magistrate, Local Ordinance Violation Court, and any investigative, administrative, or enforcement agency with legal jurisdiction over the subject violation.

(Emphasis in original; attached as **Exhibit "G."**)

23. Pinellas Suncoast Fire and Rescue District (the "Fire District") is assigned the duties and responsibilities of inspecting, monitoring, and enforcing public lodging establishments' compliance applicable fire safety statutes, codes, and ordinances in IRB.

24. Section 509.261(1), F.S., attached hereto as **Exhibit “H,”** outlines procedures for revocation or suspension of licenses in the event of the Fire District’s discovery of noncompliance, stating:

(1) Any public lodging establishment...that has operated or is operating in violation of this chapter or the rules of the division...may be subject by the division to:

- (a) Fines not to exceed \$1,000 per offense;
- (b) Mandatory completion, at personal expense, of a remedial educational program administered by a food safety training program provider approved by the division, as provided in s. 509.049; and
- (c) The suspension, revocation, or refusal of a license issued pursuant to this chapter.

...

(3) The division shall post a prominent closed-for-operation sign on any public lodging establishment...the license of which has been suspended or revoked.

25. Ultimately, Section 18-217(a), IRB Code, requires compliance with all the foregoing Florida fire safety Statutes.

B. Owners of STRs in IRB attest to compliance with Florida fire safety Statutes, including fire safety inspection, upon execution of a Business Tax Receipt License.

26. IRB Ordinance No. 2023-02 enacted Section 18-217 of the IRB Code. Section 18-217 requires that – prior to being issued an IRB vacation rental registration – an STR owner must affirm that the STR dwelling is in full compliance with IRB Code, Florida Statutes Chapter 509, the Florida Building Code, the Florida Administrative Code, and the Florida Fire Prevention Code. *See Exhibit “A.”*

27. Specifically, registration of STRs in IRB include completion of an IRB Business Tax Receipt (“BTR”) Application. Section 18-205(c)(6), IRB Code. A blank copy of the BTR

Application is attached hereto as **Exhibit “I.”** Therein, applicants attest to completing the following prior to the BTR’s issuance:

- () Department of Business & Professional Regulation Registration
- () Department of Business & Professional Regulation Health Certificate (if applicable)
- () Fire Department Inspection: Call 727/595-1117 to request inspection (if applicable)
- () Department of Revenue Certificate (if applicable)

28. **Prior** inspection by the Fire District is required for BTRs issued to STRs, especially STRs that are three-stories or more, to ensure full compliance with IRB Code, Florida Statutes Chapter 509, the Florida Building Code, the Florida Administrative Code, and the Florida Fire Prevention Code.

29. Notably, such “Vacation rental applications shall be sworn to under penalty of perjury.” Sec. 18-213, IRB Code; attached hereto within **Exhibit “A.”** Failure to provide truthful information in connection with application for registration, modification, or renewal “shall be a basis for the *suspension or revocation* of any permit, registration, or license issued pursuant to such application, in addition to the prosecution of any related code enforcement violations.” *Id.*

30. Moreover, Section 509.281, *Florida Statutes*, attached hereto as **Exhibit “J,”** provides for the *criminal* prosecution of STR owners who fail, neglect, or refuse to comply with all provisions of and duties imposed by Chapter 509, F.S., including Section 509.215, stating:

- (1) The division or an agent of the division, *upon ascertaining by inspection* that any public lodging establishment or public food service establishment is being operated contrary to the provisions of this chapter, *shall make complaint and cause the arrest of the violator*, and the state attorney, upon request of the division or agent, shall prepare all necessary papers and conduct the prosecution. *The division shall proceed in the courts by mandamus or injunction whenever such proceedings may be necessary to the proper enforcement of the*

provisions of this chapter, of the rules adopted pursuant hereto, or of orders of the division.

(2) Any operator who obstructs or hinders any agent of the division in the proper discharge of the agent's duties; who fails, neglects, or refuses to obtain a license or pay the license fee required by law; or who fails or refuses to perform any duty imposed upon it by law or rule is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Each day that such establishment is operated in violation of law or rule is a separate offense.

(Emphasis added.)

C. IRB has been derelict in fulfilling its clear, nondiscretionary, ministerial duty to enforce attestation of compliance with Florida fire safety Statutes by Owners of at least 1,168 STRs, including 317 STRs who executed BTRs and were issued STR licenses by IRB.

31. As set forth above, IRB has a clear, nondiscretionary, ministerial duty to verify that STRs with BTRs are in compliance with fire safety requirements pursuant to Section 69A-43.018, F.A.C., Sections 509.215 and 553.895, F.S., and Chapter 18 Section V, *City of Indian Rocks Beach Code*.

32. Plaintiff's investigation indicates that 1,168 illegally licensed STRs are operating in IRB without either a BPR license, a current fire safety inspection report, or both.

33. According to the Florida Department of Business and Professional Regulation ("DBPR"), there are 1,317 State licensed STRs in IRB—the listing is attached hereto as **Exhibit "K."** However, IRB issued only 502 BTR licenses for STRs according to the most recent (Sep. 2024) BTR report posted by IRB on its website – attached hereto as **Exhibit "L."**

34. Thus, based on DBPR and IRB records, Plaintiff believes there are 815 STRs illegally operating in IRB with neither a BRP license nor fire safety inspection report—the listing is attached hereto as **Exhibit "M."**

35. Of the 502 STRs issued BTRs by IRB, only 149 STRs in IRB as of December 31, 2024, have a current fire safety inspection report by the Fire District; attached hereto as **Exhibit “O”** is a list of those STRs with BTRs that the Fire District inspected and found to be compliant¹. Coincidentally, only 149 STRs in IRB are registered with the DBPR and BTR possess a current fire safety inspection report.

36. Furthermore, barring a property no longer operating as a STR, 72 STRs in IRB with BTR licenses are not registered with the DBPR as required; attached hereto as **Exhibit “P”** is a listing of those properties.

37. Consequently, Plaintiff believes that at least 1,168 STRs are illegally operating in IRB without either a BPR license, a current fire safety inspection report, or both.

38. Plaintiff further believes that of the 1,168 STRs, at least 317 illegally licensed STRs in IRB with BTRs issued by IRB, including numerous three-story structures, are not in compliance with the attestation made regarding fire safety and inspection necessary to obtain their BTR.

39. Yet, IRB has neither cited, suspended, nor revoked such owners' properties, BTR, or STR permit.

40. Ultimately, and pursuant to Section 18-217(a), IRB Code, IRB has been derelict in its duty to enforce compliance with fire safety by numerous owners of STRs, including those STRs of at least three-stories who have a BTR.

41. Plaintiff reserves the right to supplement and amend this Complaint as additional information comes to light, including information regarding additional properties IRB has failed to cite for noncompliance.

¹ Note that although the fire safety inspection report lists 217 inspections, certain properties were inspected multiple times so only 185 properties were ultimately inspected.

COUNT I
WRIT OF MANDAMUS

42. Plaintiff incorporates by reference the allegations contained within paragraphs 1 through 41 as though fully stated herein.

43. Section 18-210 of the IRB Code imbues IRB with a clear, nondiscretionary, ministerial duty to require STRs register for a BPR license and for IRB to either join in inspecting or confirm the Fire District's inspection for compliance with Florida fire safety statutes, regulations, and ordinances of STRs prior to issuance of a BTR. Sec. 18-210 (a), (b), IRB Code. *See Exhibit "A."*

44. IRB has been derelict in carrying out its irrevocably clear, nondiscretionary, and ministerial duty to enforce all STRs' compliance with Section 69A-43.018, F.A.C., Sections 509.215 and 553.895, *Florida Statutes*, and Section 18-217, IRB Code, pursuant to Sec. 18-217, IRB Code, and Section 18-210, IRB Code respectively. *See Exhibits "B," "C," "E," and "A."*

45. Plaintiff is entitled to mandamus relief. To be entitled to mandamus relief, a plaintiff must have a clear legal right to the requested relief, the defendant must have an indisputable legal duty to perform the requested action, and the plaintiff must have no other adequate remedy available. *See Pleus v. Crist*, 14 So. 3d 941 (Fla. 2009).

46. "Mandamus is defined as a remedy to command performance of a ministerial act that the person deprived has a right to demand, or a remedy where public officials or agencies may be coerced to perform ministerial duties that they have a clear legal duty to perform." *Town of Manalapan v. Rechler*, 674 So.2d 789, 790 (Fla.4th DCA 1996). "A duty or act is defined as ministerial when there is no room for the exercise of discretion, and the performance being required is directed by law." *Id.*

47. “Mandamus is a recognized remedy to require a public official, who is clothed with the authority, to discharge his duty.” *Dante v. Ryan*, 979 So. 2d 1122, 1123 (Fla. 3d DCA 2008); *see also Poole v. City of Port Orange*, 33 So. 3d 739, 741 (Fla. 5th DCA 2010) (“Mandamus is a common law remedy used to enforce an established legal right by compelling a person in an official capacity to perform an indisputable ministerial duty required by law.”) (citation omitted); *Browning v. Young*, 993 So. 2d 64, 65 (Fla. 1st DCA 2008) (stating that mandamus is a civil remedy to compel a public official to discharge a ministerial duty); *Migliore v. City of Lauderhill*, 415 So. 2d 62, 63 (Fla. 4th DCA 1982) (“[M]andamus lies to compel the performance of a specific imperative ministerial duty.”); *Fair v. Davis*, 283 So. 2d 377, 378 (Fla. 1st DCA 1973) (“mandamus is a remedy by which administrative officials or agencies may be coerced to perform ministerial duties which they have a clear legal duty to perform”).

48. Mandamus is a proper remedy here because IRB has failed to comply with a legislative mandate to perform a ministerial act. *Rowell v. State of Florida, Florida Dep’t of Law Enforcement*, 700 So. 2d 1242, 1243-44 (Fla. 2d DCA 1997).

WHEREFORE, Plaintiff requests this Court issue an order: (1) to show cause or alternative writ of mandamus, consistent with Florida Rule of Civil Procedure 1.630; (2) requiring IRB to enforce Section 69A-43.018, *Florida Admin. Code*, Sections 509.215, 509.281, and 553.895, *Florida Statutes*, and Section 18-210, *City of Indian Rocks Beach Code*, by verifying all registered STRs operating in IRB, including those registered with BTRs or with the DBPR, are in compliance with applicable fire safety codes and revoke the permit of STRs identified to be in noncompliance, including those noncompliant STRs identified by the Plaintiff. and cite the STRs who have failed to obtain a BTR.

COUNT II
TEMPORARY INJUNCTION
AS TO PERMITS FOR STRs WITH A FALSE BTR

49. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 41 as though fully stated herein.

50. As Exhibit “L” attests, IRB has impermissibly granted BTRs to at least 317 STRs who have failed to submit to fire safety inspection pursuant to Section 69A-43.018, F.A.C., Sections 509.215 and 553.895, F.S., and Chapter 18 Section V, *City of Indian Rocks Beach Code*. See Exhibits “B,” “C,” “E,” and “A.”

51. Such conduct runs contrary to IRB’s own Code which places a clear, nondiscretionary, ministerial duty upon IRB to either inspect or verify inspection for compliance with fire safety regulations pursuant to Section 18-210 (a). See Exhibit “A.”

52. IRB has been derelict in fulfilling its clear, nondiscretionary, ministerial duty to enforce attestation of compliance with fire safety Statutes by Owners of STRs who have a BTR

WHEREFORE, Plaintiff requests that a temporary injunction be granted and asks this Court to declare the STR permits issued to by IRB to STRs who have not submitted to fire safety inspection pursuant to Section 18-210 (a), *City of Indian Rocks Beach Code* , be deemed invalid and revoked until such a time when the properties may be inspected for and verified as complying fire safety and completed all other steps necessary to reapply for a new STR/BTR license.

DATED: March 7, 2025.

Respectfully Submitted,

/s/ Alexis Dion Deveaux

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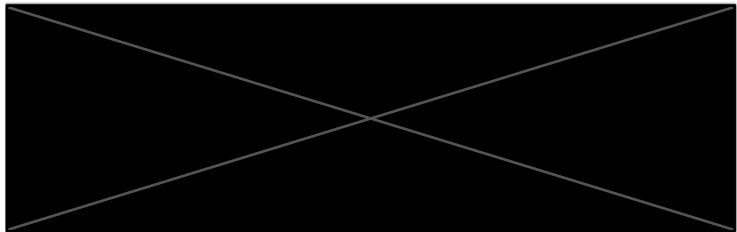
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VERIFICATION

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING PETITION, AND THE FACTS ALLEGED ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

HOMES NOT HOTELS, INC.



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