

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR SUMTER COUNTY, FLORIDA**

**SUMTER COUNTY BOARD
OF COUNTY COMMISSIONERS,**
a political subdivision of the State of Florida,

Plaintiff,

v.

Case No.: 2023-CA-

**RATTRAY FARM LLC; ALL OTHER
PARTIES OCCUPYING OR IN POSSESSION;**
if the above Defendants are alive and if one or more
of said Defendants are dead, their unknown spouses,
heirs, devisees, assignees, grantees, creditors, or
other parties claiming by, through, under or against
said defendants, and all unknown parties claiming
interests by, through, under or against a named
defendant to this action, or having or claiming to
have any right, title, or interest in the property herein
described, sued herein as **JOHN DOE,**

Defendants.

**EMERGENCY MOTION FOR TEMPORARY INJUNCTION AND MEMORANDUM
OF LAW IN SUPPORT THEREOF**

COMES NOW, Plaintiff, **SUMTER COUNTY BOARD OF COUNTY
COMMISSIONERS,** a political subdivision of the State of Florida, (hereinafter referred to as
the "County" or "Plaintiff"), by and through the undersigned counsel, and pursuant to the Florida
Rules of Civil Procedure 1.100 & 1.610, and hereby files this *Emergency Motion for Temporary
Injunction and Memorandum of Law in Support Thereof* against Defendants, **RATTRAY FARM
LLC; UNKNOWN TENANT; OR TENANTS IN POSSESSION; ALL OTHER PARTIES
OCCUPYING OR IN POSSESSION;** if the above Defendants are alive, and if one or more of
said Defendants are dead, their unknown spouses, heirs, devisees, assignees, grantees, creditors,
or other parties claiming by, through, under or against said defendants, and all unknown parties

claiming interests by, through, under or against a named defendant to this action, or having or claiming to have any right, title, or interest in the property herein described, sued herein as JOHN DOE, (hereinafter referred to as “Defendants”), and alleges as follows:

1. Defendants engage in motocross activity and operate a motocross practice facility on the subject Property despite various directives from Sumter County to cease such unpermitted operations which are in violation of the Sumter County Land Development Code.

2. On or about May 24, 2022, Defendants Minor Special Use Permit S2019-0011 Private Motor Cross Track located at 9000 CR 702, Center Hill, Florida, was revoked for violating the conditions of the permit.

3. On or about October 11, 2022, Defendants Major Special Use Application was denied by the County Commissioner.

4. On or about November 7, 2022, a Code Enforcement Order was entered pursuant to Florida Statute Chapter 162 and Sumter County Ordinance 2008-02. The order found the commercial motocross racetrack on the subject property addressed as 9000 CR 702, Center Hill, FL 33514, to be in violation of the Sumter County Land Development Code (**See Sumter County Code Enforcement Order for Case No. CE2022-0226/CE-22-06106, attached hereto and incorporated herein as *Exhibit A*.**)

5. Pursuant to Table 13-431A of the Sumter County Land Development Code, a commercial motocross racetrack is not a permitted use for the subject property without a special use permit.

6. Despite the Revocation of the Minor Special Use Permit, the denial of the Major Special Use Permit Application, and the Code Enforcement Order, Defendants continue to operate

a motocross racetrack on the Property in flagrant disregard of the County's Orders, and the Land Development Code.

7. Pursuant to Section 162.30, Florida Statutes, a county or municipality may enforce any violation of a county or municipal code or ordinance by filing a civil action in the same manner as instituting a civil action.

8. Plaintiff seeks a temporary injunction to prohibit the ongoing unpermitted motocross activity at and on the subject property while the underlying action is pending. Entry of the injunction serves the public interest.

9. Plaintiff, and its residents, faces irreparable harm without a temporary injunction and there is no adequate remedy at law. Without the temporary injunction, Defendants will continue to violate the Sumter County Land Development Code. The unlawful use is causing immediate and irreparable injury to the subject property and the neighboring parcels. The Defendants' activities cause traffic, loud noises, dust, and other nuisances to the surrounding area.

10. Plaintiff has a substantial likelihood of success on the merits since the named activity at the subject property was previously found to be in violation of the Land Development Code by a Special Master, after being afforded a hearing.

11. The threatened injury to Plaintiff greatly outweighs any possible harm to the Defendants. Defendants' use of the subject property defined herein is not permitted and any continued similar use is unlawful and in direct violation of the Land Development Code and the Code Enforcement Order.

12. Compelling the Defendants to comply with the Land Development Code and the Code Enforcement Order is in the best interest of the Plaintiff, the citizens who reside in the areas surrounding the subject property, and the public in general.

13. Plaintiff respectfully requests this court to waive any bond requirement due to the urgent public welfare nature of this matter. Should the court determine a bond is required, Plaintiff requests such amount be nominal as such action is being brought in the interest of the public.

14. The Temporary Injunction should be granted without notice to the Defendants. The Defendants are aware that their current use is unpermitted. The Defendants previously were cited for their unpermitted use of the subject property and the Defendants continue the same unpermitted activity to-date and will continue to do so into the future.

MEMORANDUM OF LAW IN SUPPORT THEREOF

It is well established under Florida law that in order to obtain a temporary injunction, the moving party must show: (1) the likelihood of irreparable harm; (2) the unavailability of an adequate remedy at law; (3) a substantial likelihood of success on the merits; and 4) consideration of the public interest. **Hadi v. Liberty Behavioral Health Corp.**, *supra*, 927 So. 2d 34, 38 (Fla. 1st DCA 2006). The party seeking injunctive relief bears the complete burden of pleading and proving each of the required elements. **Sackett v. City of Coral Gables**, 246 So. 2d 162, 164 (Fla. 3d DCA 1971). Relief may only be granted once the Plaintiffs have sufficiently proven the facts to support each element of the four-prong test. **See Hadi**, 927 So. 2d at 38. A preliminary injunction may be issued without notice to the opposing party, if giving notice will accelerate or precipitate the injury or the time to notice a hearing would permit the threatened injury. **Smith v. Knight**, 679 So.2d 359 (Fla. 4th DCA 1996).

In the instant case, Plaintiff is able to clearly show facts sufficient to support each element required for a temporary injunction. The Plaintiff has and will continue to suffer irreparable harm by the Defendants intentionally ignoring the county zoning laws.

By virtue of the fact that Defendants are operating an unpermitted commercial enterprise and engaging in ongoing unpermitted motocross activity on the subject property, Defendants have already caused irreparable harm to the Plaintiff and its citizens who reside in the surrounding area, and have placed the general welfare of citizens at risk. Additionally, as stated above, the Plaintiff has no other adequate remedy at law to enjoin the Defendants from operating in violation of Sumter County Land Development Code.

It is clear from allegations of the complaint, and from sworn testimony taken at the public hearings held in the permit revocation hearings, and the repeated complaints from neighbors, that the Defendants have committed numerous and repeated violations of the Land Development Code. Because Section 13-656 of the Land Development Code prohibits motocross tracks from operating on land zoned similar to the subject property in Sumter County, Florida, the Plaintiff is likely to succeed on the merits. Furthermore, the Plaintiff seeks the requested relief solely for the purposes of protecting the overall public health and safety of itself and its citizens.

WHEREFORE, Plaintiff, **SUMTER COUNTY BOARD OF COUNTY COMMISSIONERS**, a political subdivision of the State of Florida, respectfully requests this Court to grant judgment in favor of Plaintiff and against the Defendants, **RATTRAY FARM LLC; UNKNOWN TENANT; OR TENANTS IN POSSESSION; ALL OTHER PARTIES OCCUPYING OR IN POSSESSION;** if the above Defendants are alive and if one or more of said Defendants are dead, their unknown spouses, heirs, devisees, assignees, grantees, creditors, or other parties claiming by, through, under or against said defendants, and all unknown parties claiming interests by, through, under or against a named defendant to this action, or having or claiming to have any right, title, or interest in the property herein described, sued herein as JOHN DOE, and issue a temporary injunction without bond.

Respectfully submitted this 16th day of March, 2023,

/s/ Jennifer C. Rey, Esq.

JENNIFER C. REY, ESQ.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the forgoing *Emergency Motion for Temporary Injunction* has been served on the Defendant, *RATTRAY FARM LLC*, through their Registered Agent, Tyla Rattray, along with the Summons and Complaint.

/s/ Jennifer C. Rey, Esq.,

JENNIFER C. REY, ESQ.,

Florida Bar No.: 0041997