

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT, IN AND FOR
MIAMI-DADE COUNTY, FLORIDA.

MIGUEL QUINTERO and
MARIA G. BRICENO PEREZ,

CASE NO.:

Plaintiffs,
vs.

MIAMI-DADE COUNTY.,
Defendant.

_____ /

COMPLAINT FOR EMERGENCY INJUNCTIVE RELIEF

Plaintiff, Miguel Quintero and Maria G. Briceno Perez (“Plaintiffs”) hereby sues Defendant, Miami-Dade County, (“Miami-Dade”), Unknown Code Enforcement Inspector #1 (“Code Inspector #1”) and Unknown Code Enforcement Inspector #2 (“Code Inspector # 2”) and alleges that it is entitled to relief on the following facts:

PARTIES, VENUE AND JURISDICTION

1. This is an action for emergency injunctive relief pursuant to Fla. Stat. § 26.012(3).
2. This Court has jurisdiction over the subject matter of this action pursuant to Fla. Stat. § 26.012(3).
3. Plaintiffs reside in Miami-Dade County, Florida.
4. At all relevant times herein, Plaintiffs are the owner of the Property located at 9651 NW 13th Avenue, Miami, Fl 33147 (“Property”).
5. Pursuant to Ch. 125, Fla. Stat., Miami-Dade is a municipal corporation duly incorporated and authorized under the laws of the State of Florida.
6. Code Inspector # 1 is an employee of Miami-Dade County, Florida
7. Code Inspector # 2 is an employee of Miami-Dade County, Florida.

MIG MICHAEL GARCIA, PA

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8. Venue is Proper in Miami-Dade County, Florida.

GENERAL ALLEGATIONS

9. Miami-Dade is authorized under the laws of the State of Florida to maintain a Code Enforcement Department.

10. The Miami-Dade Code Enforcement Department (“Code Enforcement Department”) acts as the agent for Miami-Dade in the area of Code Enforcement.

11. Miami-Dade is ultimately responsible for the actions of the Code Enforcement Department, and assumes the risks incidental to the maintenance of the Code Enforcement Department and the employment of its Code Enforcement Inspectors.

12. At all relevant times herein, Miami-Dade was and is responsible for the operation, administration, management and oversight of all activities involving the Code Enforcement Department and its employees.

13. At all relevant times herein, Miami-Dade and the Code Enforcement Department hired, employed, supervised, trained and controlled Code Enforcement Inspector #1.

14. At all relevant times herein, Miami-Dade and the Code Enforcement Department hired, employed, supervised, trained and controlled Code Enforcement Inspector #2.

15. At all times relevant herein, Code Enforcement Inspector #1 was and/or is an officer, employee, and agent of the Code Enforcement Department and Miami-Dade. Code Enforcement Inspector #1 was duly appointed and acting as a Code Inspector for the Code Enforcement Department and Miami-Dade. Code Enforcement Inspector #1 is being sued in his individual capacity.

16. At all times relevant herein, Code Enforcement Inspector # 2 was and/or is an officer, employee, and agent of the Code Enforcement Department and Miami-Dade. Code Enforcement

Inspector #2 was duly appointed and acting as a Code Inspector for the Code Enforcement Department and Miami-Dade. Code Enforcement Inspector # 2 is being sued in his or her individual capacity.

COUNT I-VIOLATION OF PLAINTIFFS' EXPECTATION OF PRIVACY
MIAMI-DADE COUNTY

Plaintiffs hereby re-allege paragraphs 1 through 16 as if fully set forth herein and further alleges as follows:

17. This is an action for damages pursuant to § 934.50, Fla. Stat.
18. Pursuant to the United States Constitution and Florida State Constitution, Plaintiffs have an Expectation of Privacy regarding their Property not to be surveilled by the Government.
19. Pursuant to § 934.50, Fla. Stat., Plaintiffs have an Expectation of Privacy regarding their Property not to be surveilled by the Government.
20. Pursuant to § 934.50, Fla. Stat., it is illegal for a person, a state agency, or a political subdivision to use drone equipped with an imaging device to record an image of privately owned real property or of the owner, tenant, occupant, invitee, or licensee of such property with the intent to conduct surveillance on the individual or property captured in the image without written consent or a search warrant.
21. Code Enforcement Inspector # 2, illegally used drone equipment over Plaintiffs' Property and obtained aerial photos of the Property for an illegal investigate an alleged code violation.
22. Miami-Dade via its Code Enforcement Department and Code Enforcement Inspectors obtained illegal aerial Photos and Images of the Plaintiffs Property in violation of § 934.50, Fla. Stat.
23. Plaintiffs never gave their consent to Miami-Dade, the Code Enforcement Department or Code Enforcement Inspectors to use drone equipment over Plaintiffs' Property to investigate an alleged code violation or obtain Photos of the Property.

24. Pursuant to their investigation regarding the alleged violation, Miami-Dade states that the only evidence it has of the violation are the illegal ariel photos. *A true and correct copy of the Miami-Dade County Case Detail Information is attached hereto as Exhibit A.*

25. In addition, Miami-Dade, the Code Enforcement Department and the Code Enforcement Inspector have also violated § 162.06, Fla. Stat. and 125.69(4)(b), Fla. Stat. because a code inspector may not initiate an investigation of a potential violation of a duly enacted code or ordinance by way of anonymous complaint.

26. As a result of Miami-Dade's actions, Plaintiffs have been damaged in excess of \$50,000.00.

27. All conditions precedent to commence this lawsuit have occurred, been excused, or have been waived.

28. Plaintiffs have been caused to retain undersigned counsel to represent them in this action and are obligated to pay their reasonable attorney's fees and costs.

29. Miami-Dade is now responsible for Plaintiffs' attorney's fees and costs incurred in this lawsuit pursuant to §934.50, *Fla. Stat.*

WHEREFORE, Plaintiffs, Miguel Quintero and Maria G. Briceno Perez, respectfully requests that this Court enter a judgment for damages in excess of \$50,000.00 against Miami-Dade, plus an award of attorney's fees, costs, and for such other relief as the Court deems proper and just.

COUNT II-VIOLATION OF PLAINTIFFS' EXPECTATION OF PRIVACY
CODE ENFORCEMENT INSPECTOR # 2

Plaintiffs hereby re-allege paragraphs 1 through 16 as if fully set forth herein and further alleges as follows:

30. This is an action for damages pursuant to § 934.50, Fla. Stat.

31. Pursuant to the United States Constitution and Florida State Constitution, Plaintiffs have an Expectation of Privacy regarding their Property not to be surveilled by the Government.

32. Pursuant to § 934.50, Fla. Stat., Plaintiffs have an Expectation of Privacy regarding their Property not to be surveilled by the Government.

33. Pursuant to § 934.50, Fla. Stat., it is illegal for a person, a state agency, or a political subdivision to use drone equipped with an imaging device to record an image of privately owned real property or of the owner, tenant, occupant, invitee, or licensee of such property with the intent to conduct surveillance on the individual or property captured in the image without written consent or a search warrant.

34. Code Enforcement Inspector # 2, illegally used drone equipment over Plaintiffs' Property and obtained aerial photos of the Property for the investigate an alleged code violation.

35. Code Enforcement Inspector # 2 obtained illegal aerial Photos and Images of the Plaintiffs' Property in violation of § 934.50, Fla. Stat.

36. Plaintiffs never gave their consent to Miami-Dade, the Code Enforcement Department or Code Enforcement Inspector # 2 to use drone equipment over Plaintiffs' Property to investigate an alleged code violation or obtain Photos of the Property.

37. Pursuant to Code Enforcement Inspector # 2 investigation regarding the alleged violation, he or she states that the only evidence they have of the violation are the illegal ariel photos. See Exhibit A.

38. In addition, Code Enforcement Inspector # 2 has also violated § 162.06, Fla. Stat. and 125.69(4)(b), Fla. Stat. because a code inspector may not initiate an investigation of a potential violation of a duly enacted code or ordinance by way of anonymous complaint.

39. As a result of Code Enforcement Inspector # 2's actions, Plaintiffs have been damaged in excess of \$50,000.00.

40. All conditions precedent to commence this lawsuit have occurred, been excused, or have been waived.

41. Plaintiffs have been caused to retain undersigned counsel to represent them in this action

and are obligated to pay it reasonable attorney's fees and costs.

42. Defendant is now responsible for Plaintiffs' attorney's fees and costs incurred in this lawsuit pursuant to §934.50, *Fla. Stat.*

WHEREFORE, Plaintiffs, Miguel Quintero and Maria G. Briceno Perez, respectfully requests that this Court enter a judgment for damages in excess of \$50,000.00 against Code Enforcement Inspector # 2, plus an award of attorney's fees, costs, and for such other relief as the Court deems proper and just.

COUNT III- TRESPASS ON LAND
CODE ENFORCEMENT INSPECTOR # 1

Plaintiffs hereby re-allege paragraphs 1 through 16 as if fully set forth herein and further alleges as follows:

43. On February 28, 2023, Code Enforcement Inspector # 1, entered upon Plaintiffs' Property to conduct an illegal investigate an alleged code violation. Plaintiffs have a video recording of the Inspector entering their Property and taking Photos. *A true and correct copy of Pictures is attached hereto as Exhibit B.*

44. Plaintiffs never gave the Code Enforcement Inspector #1 consent to enter onto their Property.

45. Plaintiff never gave Miami-Dade, or its agent/employees consent to enter onto his Property.

46. No search warrant was issued to enter or search Plaintiffs' Property.

47. Plaintiffs' constitutional rights, civil rights and property rights were violated by Code Enforcement Inspector #1.

48. Pursuant to 125.69(4)(b), a code inspector may not initiate an investigation of a potential violation a duly enacted code or ordinance by way of anonymous complaint.

49. However, the investigation that caused the Trespass on Plaintiffs' property

was initiate by a Miami-Dade Code inspector not a civilian which is a violation of the Law.

50. As a result of the Trespass, Plaintiffs have sustained damages in excess of \$50,000.00.

WHEREFORE, Plaintiffs, Miguel Quintero and Maria G. Briceno Perez, respectfully requests that this Court enter a judgment for damages in excess of \$50,000.00 against Code Enforcement Inspector # 1, plus costs, and for such other relief as the Court deems proper and just.

COUNT IV- TRESPASS ON LAND
MIAMI-DADE COUNTY

Plaintiffs hereby re-allege paragraphs 1 through 16 as if fully set forth herein and further alleges as follows:

51. On February 28, 2023, Code Enforcement Inspector # 1, entered upon Plaintiffs' Property to conduct an illegal investigate an alleged code violation. Plaintiffs have a video recording of the Inspector entering their Property and taking Photos. See Exhibit B.

52. Plaintiffs never gave the Code Enforcement Inspector #1 consent to enter onto their Property.

53. Plaintiffs never gave Miami-Dade, or its agent/employees consent to enter onto his Property.

54. No search warrant was issued to enter or search Plaintiffs' Property.

55. Plaintiffs' constitutional rights, civil rights and property rights were violated by Miami-Dade.

56. Pursuant to 125.69(4)(b), a code inspector may not initiate an investigation of a potential violation a duly enacted code or ordinance by way of anonymous complaint.

57. However, the investigation that caused the Trespass on Plaintiffs' property was initiated by a Miami-Dade Code inspector not a civilian which is a violation of the Law.

58. As a result of the Trespass, Plaintiffs have sustained damages in excess of \$50,000.00.

WHEREFORE, Plaintiffs, Miguel Quintero and Maria G. Briceno Perez, respectfully requests that this Court enter a judgment for damages in excess of \$50,000.00 against Miami-Dade, plus costs, and for such other relief as the Court deems proper and just.

COUNT V- EMERGENCY INJUNCTIVE RELIEFE

ALL VIP hereby re-alleges paragraphs 1 through 29 and 51 through 58 as if fully set forth herein and further alleges as follows:

59. This is an action seeking emergency injunctive relief to prevent Miami-Dade and its Code Enforcement Inspector from any further violation of Plaintiffs constitutional rights, civil rights, property rights and rights under § 934.50, Fla. Stat.

60. In relevant part, § 934.50(5), Fla. Stat. states as follows:

“An aggrieved party may initiate a civil action against a law enforcement agency to obtain all appropriate relief in order to prevent or remedy a violation of this section.

The owner, tenant, occupant, invitee, or licensee of privately owned real property may initiate a civil action for compensatory damages for violations of this section and may seek injunctive relief to prevent future violations of this section against a person, state agency, or political subdivision that violates paragraph (3)(b).”

61. Plaintiffs have no adequate legal remedy to prevent any future violation of their constitutional rights, civil rights, property rights and rights under § 934.50, Fla. Stat.

62. No amount of money will undue the harm Plaintiffs will suffer if their constitutional rights, civil rights, property rights and rights under § 934.50, Fla. Stat are violated.

63. Plaintiffs have a substantial likelihood of success on the merits because no search warrant was ever issued allowing Miami-Dade or its Code Enforcement Inspector to enter onto Plaintiffs' Property or to use drone surveillance of Plaintiffs' Property.

64. Miami-Dade and its Code Enforcement Inspectors have no legal justification for

violated Plaintiffs constitutional rights, civil rights, property rights and rights under § 934.50, Fla. Stat are violated.

65. Miami-Dade and its Code Enforcement Inspectors have no legal justification for entering on Plaintiffs' Property.

66. Miami-Dade and its Code Enforcement Inspectors have no legal justification to use drone equipped with an imaging device to record an image of Plaintiffs' Property.

67. No search warrant was issued to enter on Plaintiffs' Property or use drone surveillance on Plaintiffs' Property.

68. Plaintiffs have a legal right to injunctive relief as Miami-Dade and its Code Enforcement Inspectors' conduct undeniably violated Plaintiffs' constitutional rights, civil rights, property rights and rights under § 934.50, Fla. Stat are violated.

69. Miami-Dade and the Code Enforcement Inspectors' actions will cause Plaintiffs to suffer irreparable harm.

70. Plaintiffs as homeowner will not be able to enjoy the benefits of home ownership if Miami-Dade and the Code Enforcement Inspectors are allowed to violated Plaintiffs' constitutional rights, civil rights, property rights and rights under § 934.50, Fla. Stat are violated during the course of this litigation.

71. Plaintiffs currently do not have piece of mind or an Expectation of Privacy in their own home.

72. The damages that Miami-Dade and Code Enforcement Inspector are inflicting on Plaintiffs outweighs any possible harm to Miami-Dade should this Court issue the requested injunction.

73. The requested injunction will not disserve the public interest because the injunction is designed to Protect the Property rights of all homeowners, not just the Plaintiffs.

74. Plaintiffs have been caused to retain undersigned counsel to represent them in this action

and are obligated to pay it reasonable attorney's fees and costs.

75. Miami-Dade is now responsible for Plaintiffs' attorney's fees and costs incurred in this lawsuit pursuant to §934.50, *Fla. Stat.*

WHEREFORE, Plaintiffs, Miguel Quintero and Maria G. Briceno Perez, respectfully requests that this Court enter a temporary injunction preventing Miami-Dade and its Code Enforcement Inspector from violating Plaintiffs' constitutional rights, civil rights, property rights and rights under § 934.50, Fla. Stat., plus an award of attorney's fees, costs, and for such other relief as the Court deems proper and just.

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REGULATORY AND ECONOMIC RESOURCES
CASE DETAILS INFORMATION

TMMRP_CASE_DETAILS

04/26/23

CASE 202204004002

CASE INFORMATION

CASE 202204004002 **CSR #** 22-10358583 **STATUS** Open **DATE** 09/23/22 **INPUT DATE** 09/23/22
CLOSE DATE **REASON** **BY** E301190
DESCRIPTION OPENED FROM CASE 202104003625. OPERATING A HOME OCCUPATION WITHOUT A CERTIFICATE OF USE
MULTIPLE COMPLAINTS N **VIOLATION** 33-25.1(A)(12) **WARNING** X **CITATION** X
REFERRED BY RER Staff
SOURCE Eyes and Ears
PROBLEM 504 Home Occupation

LOCATION
9651 NW 13 AVE

SITE INFORMATION
9651 NW 13 AVE

CSR ORIGINAL LOCATION

TRAILER LOT NO.

WORKER E316193-NAZARET JASPE
TERRITORY 603
OFFICE NORTH 1 (#4)
MUNICIPALITY 30 => Unincorporated
COMM DISTRICT 2 => Marleine Bastien
COMM COUNCIL 8 => North Central
CDBG 624 => West Little River
HOA 857 => TWIN LAKES-NORTHSIDE

QUEST

WHAT TYPE OF BUSINESS IS BEING CONDUCTED?
 WHAT IS THE NAME OF THE BUSINESS?
 IS THERE MERCHANDISE STORED OUTSIDE?
 IS THERE BUSINESS ADVERTISEMENT ON SITE?
 ARE COMMERCIAL VEHICLES ON SITE?

RESPONSE

..

PROPERTY INFORMATION

OWNER / MAIL ADDRESS	FOLIO	LEGAL	DECAL
MARIA G BRICENO PEREZ	3031020320010	NORTH SHORE ESTATES	
MIGUEL ANGEL QUINTERO	9651 NW 13 AVE	PB 153-85 T-19756	VIN
9651 NW 13TH AVE	DISTRICT	LOT 1 BLK 1	
MIAMI FL	2 => Marleine Bastien	& PORT OF TR A DESC BEG AT SW	TAG
331472600	ZONING	NE1/4 OF SE1/4 OF NW1/4 OF SEC	
SALE 02/2005	RU-1	N 02 DEG W 125.01FT N 87 DEG E	

SCHEDULED ACTIVITIES

<u>ACTIVITY</u>	<u>SCHEDULED</u>	<u>STAFF</u>	<u>ACTUAL</u>	<u>PRIORITY</u>	<u>STATUS</u>	<u>COMMENT</u>
First Inspection	09/25/22	FRA	09/23/22	Standard	Completed	
Re-inspection	10/31/22	E316193	11/01/22	Standard	Completed	Created by eTicketing. Warning Number W388791
Check for CVN/MH Bill payment	11/29/22	E316193	11/29/22	Standard	Cancelled/Closed	CVN: T109134
Compliance Inspection	11/29/22	ANDRESB	11/29/22	Standard	Cancelled/Closed	Created by eTicketing. Citation Number T109134
Court Hearing	04/30/23	E316193		Standard	Active	

Exhibit A



REGULATORY AND ECONOMIC RESOURCES
CASE DETAILS INFORMATION

TMMRP_CASE_DETAILS

04/26/23

CASE 202204004002

ACTIVITY/ DETAILS							
<u>ACTIVITY</u> <u>DETAIL</u>	<u>DATE</u>	<u>METHOD</u>	<u>NUMBER</u>	<u>WORKER</u>	<u>REASON</u>	<u>COMMENT</u>	<u>CSR CODE</u>
Intake	09/23/22			E301190			
Case staff transfer	09/23/22			FRA			N
Correspondence	09/23/22			FRA		C.U. search results and aerial, SUNBIZ & LBT.	N
First Inspection	09/23/22			FRA		Created by eTicketing. Warning Number W388791	Y
Found in Violation	09/23/22		W388791			Created by eTicketing. Warning Notice Number W388791	Y
Manual Warning	09/23/22	Posted/Mailed	W388791			FAILURE TO OBTAIN A CERTIFICATE OF USE FOR HOME OCCUPATION, PROVISION OF SECTION 33-25.1 (A)(12) TO WIT: FAILURE TO OBTAIN A CERTIFICATE OF USE FOR HOME OCCUPATION, PROVISION OF SECTION 33-25.1 (A)(12) TO WIT: OPERATING A HOME OCCUPATION WITHOUT A CERTIFCATE OF USE.	Y
Notice Posted	09/23/22	Posted/Mailed	W388791				Y
Photographs	09/23/22		5				N
Case staff transfer	09/23/22			FRA			N
Additional Information from NCO/MHO	09/23/22			FRA		Active corporation & LBT using subject property as principal address for GABY B DESIGNS, LLC and active corporation using subject property as principal address for MIAMI ARTISAN VILLAGE, LLC.	N
Warning Notice/General NOV mailed	09/26/22	Posted/Mailed		FRA		Created by Electronic Mail Process. Warning Number W388791	N
Re-inspection	11/01/22			ANDRESB		Created by eTicketing. Citation Number T109134	Y
Citation	11/01/22	Posted/Mailed	T109134			FAILURE TO OBTAIN A CERTIFICATE OF USE FOR HOME OCCUPATION, PROVISION OF SECTION 33-25.1 (A)(12) TO WIT: OPERATING A HOME OCCUPATION WITHOUT A CERTIFCATE OF USE.	Y
CVN posted	11/01/22		T109134			Created by eTicketing. Citation Number T109134	N
Photographs	11/01/22		2			2	N
Correspondence	11/01/22			ANDRESB		ACTIVE LISTINGS AS OF 11/1/22	N



REGULATORY AND ECONOMIC RESOURCES
CASE DETAILS INFORMATION

TMMRP_CASE_DETAILS

04/26/23

CASE 202204004002

ACTIVITY/ DETAILS

<u>ACTIVITY</u> <u>DETAIL</u>	<u>DATE</u>	<u>METHOD</u>	<u>NUMBER</u>	<u>WORKER</u>	<u>REASON</u>	<u>COMMENT</u>	<u>CSR CODE</u>
Personal Contact	03/23/23	Personal		JESSIKAP		Miguel Quintero/305-216-1497, came into the office to inquire if fines continue to be added to the citation even he has filed an appeal because he his roofing permit which he is trying to get an extension is on hold. Explained once an appeal has been filed additional penalties are not added on and as long as the citations are either paid or an appeal has been filed the hold can be lifted. After review all of the citations both in CMS and BSS were appealed, therefore; the ENFC hold under process no. C2023073743 was released.	Y

CITATION/ACTIVITIES

<u>CITATION</u>	<u>ACTIVITY</u>	<u>MODE</u>	<u>DATE</u>	<u>STATUS</u>	<u>REASON</u>	<u>VIOLATOR</u>	<u>WORKER</u>	<u>REPLACEMENT</u>
T109134		Draft	11/01/22	Active		MARIA G BRICENO PEREZ	MIGUEL ANGEL QUINTERO	

ATTACHMENTS

<u>TYPE</u>	<u>DATE</u>	<u>ATTACHMENT LOCATION</u>	<u>METHOD</u>
Pictures	11/01/22	2	Digital Camera

CASE HISTORY

<u>CASE</u>	<u>DATE</u>	<u>STATUS</u>	<u>PROBLEM</u>	<u>VIOLATION</u>	<u>C</u>	<u>W</u>	<u>OWNER</u>
201504006039	09/08/15	Closed	13	Junk/Trash/Overgrowth on Unimproved/Improved Prop	19-13(B)	X	
202104002827	06/30/21	Closed	500	Construction Performed without Required Permit			MARIA G BRICENO PEREZ
202104003625	09/01/21	Closed	503	Failure to Obtain a Certificate of Use	33-8(A)	X	MARIA G BRICENO PEREZ
202104003647	09/02/21	Closed	500	Construction Performed without Required Permit	33	X	MARIA G BRICENO PEREZ
202204004003	09/23/22	Closed	500	Construction Performed without Required Permit	33	X	MARIA G BRICENO PEREZ
202204004004	09/23/22	Open	74	Commercial Vehicle - Unauthorized	33-124.1(B)	X X	MARIA G BRICENO PEREZ

