

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

GENERAL JURISDICTION DIVISION

CASE NO.

THE VILLAGE OF PALMETTO BAY,
A Florida municipality,

Plaintiff

v.

DAVID SINGER,
An individual,

Defendant.

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

The Village of Palmetto Bay, Florida, sues David Singer and alleges:

Parties

1. Plaintiff, the Village of Palmetto Bay, Florida (“Palmetto Bay”), is a municipality in Miami-Dade County, Florida.
2. Defendant, David Singer (“Singer”), is an individual residing in the Village of Palmetto Bay.

Jurisdiction and Venue

3. The acts complained about in this Complaint have taken and are taking place at this time in Palmetto Bay.

4. Venue is proper in this Court because both parties are located in Miami-Dade County and the ongoing code violations at issue are taking place in Miami-Dade.

5. This Court has jurisdiction of this matter pursuant to §§162.13 and 162.30, Florida Statutes, and pursuant to Chapter 96, Florida Statutes.

Factual Allegations

6. Article I, Section 2.1. of the Village of Palmetto Bay Code of Ordinances (hereinafter the “Code”) defines the seal of the Village of Palmetto Bay, as follows:



7. Article I, Section 2.1.(d) of the Code states:

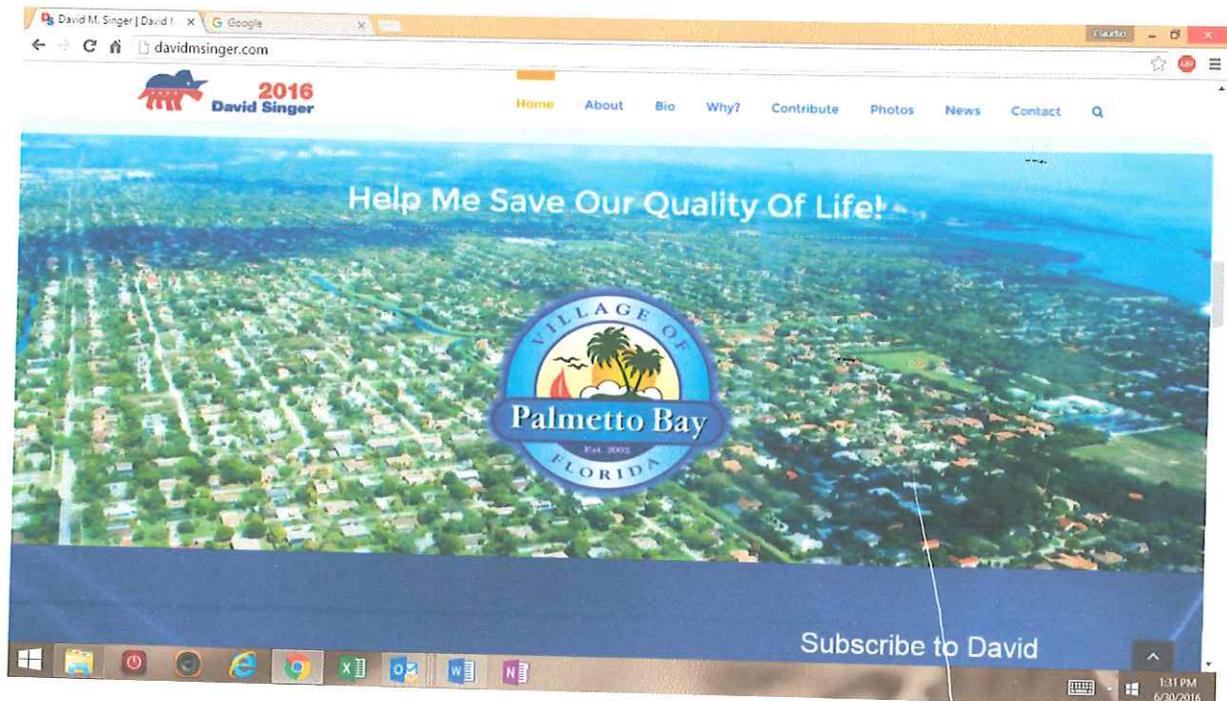
Prohibition. It shall be *unlawful and a violation of Chapter 1 of this Code for any person to print for the purpose of sale or distribution, or to circulate, manufacture, publish, use, display or offer for sale any letters, papers, documents, clothing, equipment or items of merchandise which simulate the official seal of the village or the stationery of an official, department or instrumentality of the village without the expressed written authority of the village council or its designee.* Pursuant to F.S. § 165.043, the unauthorized use or reproduction of the seal constitutes a second degree misdemeanor, punishable as provided in F.S. §§ 775.082 and 775.083.

8. Singer is running for the Palmetto Bay Council seat 2 for the November 2016 municipal council election.

9. In his advertisements, Singer is circulating, using and publishing documents which simulate the seal of the Village of Palmetto Bay. Shown below is an example of Singer's illegal circulation, use and publication of the Palmetto Bay Village seal in a facebook post:



10. Singer also maintains a web site, under the name of www.davidmsinger.com, where he illegally circulates, uses and publishes documents which simulate the seal of the Village of Palmetto Bay. The following is a screen shot of part of the said web page:



11. Singer has never obtained the written authority of the Village Council to circulate, use and publish the seal of the Village of Palmetto Bay,
12. It is clear that Singer is completely disregarding and disrespecting Palmetto Bay's Code, including without limitation, Palmetto Bay's Article I, Section 2.1(d).

COUNT I – DECLARATORY RELIEF

13. Palmetto Bay restates and incorporates by reference Paragraphs 1-12 of this Complaint.
14. This is an action for declaratory judgment pursuant to Chapter 86, Fla. Stat.
15. There is a bona-fide, actual, present and practical need for the declaration sought in this action, and Village of Palmetto Bay is unsure about its and Singer's rights related to the above-described conduct of Defendant Singer, the Village has an actual, present, adverse, and

antagonistic interest in the subject matter of this action. The Village believes that Singer is violating the code of the Village of Palmetto Bay.

WHEREFORE, for the foregoing reasons, Palmetto Bay respectfully requests that this Court find that Singer has violated and is currently violating the Code of Palmetto Bay; and grant such other and further relief as the Court deems necessary and proper, including an award of costs to Palmetto Bay.

COUNT II: INJUNCTIVE RELIEF

16. Palmetto Bay restates and incorporates by reference Paragraphs 1-12 of this Complaint.

17. Singer's continued circulation, use and publication of the Village of Palmetto Bay seal violates the Code of Palmetto Bay.

18. Singer knowingly and purposefully continues to violate the Code without regard for the procedures, requirements, and obligations required by it.

19. Palmetto Bay has a substantial likelihood of success on the merits in this case, as Singer has no legal justification for its disregard for the Code and continued use of the Village Seal of Palmetto Bay without the required permission to do so.

20. Without injunctive relief, Palmetto Bay will be irreparably harmed, and will not have an adequate remedy at law.¹

¹ When an injunction is sought by a governmental entity to enforce its police powers, such as here, the municipality need not come forth with proof to show irreparable harm or lack of an alternative legal remedy. *Metro-Dade County v. O'Brien*, 660 So.2d 364, 365 (Fla. 3d DCA 1995). Instead, where the government seeks an injunction in order to enforce its police power, any

21. Palmetto Bay and its citizens have a clear legal right and public interest in compliance with Palmetto Bay's Code.

22. Palmetto Bay is seeking both temporary and permanent injunctive relief, prohibiting Polo from violating Palmetto Bay's Code as stated above, all in an effort to enforce its police powers.

WHEREFORE, for the foregoing reasons, Plaintiff, Palmetto Bay, respectfully requests temporary and permanent injunctive relief and that the Court:

- a) Prohibit Singer from making the afore-described illegal circulation, use and publication of the Palmetto Bay Village seal;
- b) Award Plaintiff Palmetto Bay its cost for the bringing of this action;
- c) Retain jurisdiction to ensure compliance with any and all injunctions;
- d) Grant such other and further relief as this Court deems necessary and proper.

Respectfully submitted,

LEHTINEN SCHULTZ RIEDI
CATALANO de la FUENTE
Attorneys for Village of Palmetto Bay
1111 Brickell Avenue, Suite 2200
Miami, Florida 33131
Tel: 305-760-8544 Fax: 305-356-5720
Email: criedi@lsrcf.com; dwlehtinen@aol.com

By: /s/ Claudio Riedi
DEXTER W. LEHTINEN, ESQ
Florida Bar No. 265551
CLAUDIO RIEDI, ESQ.
Florida Bar No.: 984930

alternative legal remedy is ignored and irreparable harm is presumed. *Keystone Creations, Inc. v. City of Delray Beach*, 890 So.2s 1119, 1125 (Fla. 4th DCA 2004).