

IN THE TWELFTH JUDICIAL CIRCUIT COURT  
IN AND FOR SARASOTA COUNTY, FLORIDA

MYAKKA RIVER RESORT LLC,  
Plaintiff,

v.

CASE NO. 2020 CA 000723 SC  
DIVISION H CIRCUIT

CITY OF NORTH PORT,  
Defendant.

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**FINAL JUDGMENT**

THIS CAUSE came before the Court for hearing on November 8, 2021 on the City of North Port's Motion for Summary Judgment as to Counts I and II of Plaintiff's Amended Complaint. This Cause also came before this Court for hearing on May 3, 2023 on the Parties' Cross-Motions for Summary Judgment as to Count IV of Plaintiff's Amended Complaint and the parties respective oppositions thereto. Plaintiff previously filed notices dropping and dismissing Counts III, V and VI of its Amended Complaint. Based upon the disposition of Counts I, II and IV of Plaintiff's amended Complaint and pursuant to the Court's summary judgment orders (DINs 100, 155), the entry of a Final Judgment is proper and the Court enters Final Judgment as follows:

1. Final Judgment is entered in favor of Defendant, City of North Port, and against Plaintiff, Myakka River Resort, LLC, as to Counts I and II of Plaintiff's Amended Complaint as set forth in the Court's Order Granting Summary Judgment filed on November 23, 2021, and Defendant shall go hence without day.

2. Final Judgment is entered in favor of Plaintiff, Myakka River Resort, LLC and against Defendant, City of North Port, for final injunctive relief on Count IV of Plaintiff's Amended Complaint, and the Court makes the following findings in support of the Injunction entered against the City of North Port:

- a. Plaintiff has proven that it owns the Water System<sup>[1]</sup> located upon Plaintiff's privately-owned real property located at 10400 S. Tamiami Trail, North Port, Florida 34287 ("Property"). Plaintiff has also proven that the City of North Port owns a Branch Line that is connected to Water System, and through that connection provides water service to service property located at 10002 S. Tamiami Trail, North Port, Florida. The Branch Line's point of connection to the Water System is physically located within the boundaries of Plaintiff's Property. The City of North Port holds no express, assigned, implied or prescriptive easement rights permitting it to occupy the Property or use Plaintiff's Water System located on Plaintiff's Property.
- b. The connection of the Branch Line and the continuous use of Plaintiff's Water System constitutes a trespass by Defendant, City of North Port.
- c. Plaintiff has proven that is has suffered and will continue to suffer irreparable harm occasioned by the continued trespass by the City of North Port.
- d. Since summary judgment was entered in favor of Defendant, City of North Port as to Counts I and II of Plaintiff's Amended Complaint (inverse condemnation claims), Plaintiff lacks an adequate remedy at law to remedy the City's trespass.
- e. Plaintiff has proven that a permanent injunction in this case would not disserve the public interest because it is in the public interest that the government cannot appropriate and interfere with the property rights of another without just compensation.

NOW WHEREFORE it is Ordered and Adjudged as follows:

The City of North Port is enjoined as follows:

- A. The City of North Port, within six (6) months from the date of this Final Judgment, shall cause the Branch Line to be disconnected from Plaintiff's Water System. The City shall file a Notice of Compliance in this action within twenty (20) days from the date the Branch Line is disconnected.
- B. The City's obligations to disconnect the Branch Line are subject to and conditioned upon the Plaintiff providing the City and/or its contractors with reasonable and sufficient access to the Property to perform the necessary work.
- C. In recognition of the fact that, in order to perform the work necessary to fulfill its obligations under the injunction, the City is likely to require permitting from and coordination with other, non-party agencies, the deadline set forth in paragraph A can be extended upon motion by the City with an explanation of the reasonable need for extension.
- D. The Court finds that the Defendant's use of its eminent domain powers are not foreclosed, and this injunction shall not apply to any legal rights to occupy or use Plaintiff's Property or Plaintiff's Water System in the event Defendant lawfully acquires such rights in the future.

3. This Court reserves jurisdiction to determine entitlement and the amount of attorneys fees and costs, if applicable, and to enter any other Order as may be permitted by Florida law.

4. The Court retains jurisdiction to modify the terms of the injunction as to the deadlines set forth in paragraph A until such time as the work required to perform the obligations

in paragraph A is completed. Upon completion of the disconnection and the filing of the Notice of Compliance as set forth in paragraph A above this Injunction will be terminated.

[1] All capitalized terms not defined in this Final Judgment have the same meaning as defined in the Court's Order Granting Plaintiff's Motion for Summary Judgment as to Count IV and Denying Defendant's Cross-Motion for Summary Judgment dated May 6, 2024.

DONE AND ORDERED in Sarasota, Sarasota County, Florida, on June 13, 2024.

6/13/2024 5:38 PM 2020 CA  
000723 SC  


e-Signed 6/13/2024 5:38 PM 2020 CA 000723 SC

**DANIELLE BREWER**  
Circuit Judge

**SERVICE CERTIFICATE**

On June 13, 2024, the Court caused the foregoing document to be served via the Clerk of Court's case management system, which served the following individuals via email (where indicated). On the same date, the Court also served a copy of the foregoing document via First Class U.S. Mail on the individuals who do not have an email address on file with the Clerk of Court.

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