

IN THE DISTRICT COURT OF APPEAL
FOR THE SECOND DISTRICT
STATE OF FLORIDA

CLAY G. COLSON,

Petitioner,

Case No.: 2D22-1756

L.T. No.: 21-005793-CI

v.

JUDGE PATRICIA ANN MUSCARELLA
and THE CITY OF TARPON SPRINGS,
FLORIDA,

Respondents. /

**PETITIONER'S REPLY TO OR MOTION TO STRIKE THE
RESPONSE TO PETITIONER'S MOTION FOR REHEARING AND
MOTION FOR REHEARING EN BANC**

As counsel for the Respondent, City of Tarpon Springs,
misrepresented both facts and law in its Response to the
Petitioner's Motion for Rehearing and Rehearing En Banc and as
neither Fla. R. App. P. 9.330 nor Fla. R. App. P. 9.331 prohibit reply
briefs, the Petitioner files his Reply to or Motion to Strike the City's
Response to the Petitioner's Motion for Rehearing and Motion for
Rehearing En Banc showing:

I. This Case is Not Moot.

Counsel for the Respondent, City of Tarpon Springs, (hereinafter referred to as the City) claims that this action is moot “because there is no presently pending circuit court proceeding....”

However, the fact is that there is a presently pending proceeding in the circuit court, and counsel for the City was well aware of that fact when it filed its Response. See a copy of the docket of the lower court proceeding in the Petitioner’s Appendix A to this reply, and note that the undersigned had filed a timely Motion for Rehearing on July 13, 2022 which was 5 days before counsel for the City filed its Response in this action claiming that “there is no presently pending circuit court proceeding....”

Furthermore, the Petitioner and others may want to record proceedings before JUDGE MUSCARELLA and other judges of the Sixth Judicial Circuit, and both JUDGE MUSCARELLA and the Sixth Judicial Circuit’s Administrative Order No. 2008-076 PA/PI-CIR obstruct the First Amendment right to gather news as clarified in Florida Rule of General Practice and Judicial Administration 2.450 and in both Florida and U.S. Supreme Court precedent. See, State ex rel. Miami Herald Publishing Co. v. McIntosh, 340 So.2d

904, 910 (Fla. 1977) and Branzburg v. Hayes, 408 U.S. 665, 681, 92 S.Ct. 2646, 33 L.Ed.2d 626 (1972).

Therefore, this Court should recognize that its Order of June 21, 2022 is contrary to controlling precedent, that such Order should be vacated, and that this Court should order JUDGE PATRICIA ANN MUSCARELLA and any other judge presiding over proceedings in the the Sixth Judicial Circuit to allow me and any other person to make audio and/or video recordings of all proceedings as long as such recording does not disrupt proceedings or pose a threat to the fair administration of justice.

II. It is appropriate to raise the unconstitutionality of the Sixth Judicial Circuit's Administrative Order

No. 2008-076 PA/PI-CIR.

Counsel for the City complains that moving for rehearing of this Court's Order of June 21, 2022 which denied my Petition and directed me to seek permission to record proceedings pursuant to the Sixth Judicial Circuit's Administrative Order No. 2008-076 PA/PI-CIR by pointing out that such Admin. Order violates the First Amendment right to gather news as clarified in Rule 2.450 and in both Florida and U.S. Supreme Court precedent is improper.

However, counsel for the City ignores the fact that this Court overlooked the fact that Florida Rule of Appellate Procedure 9.100(k) provides for 30 days to reply to the Response served by City on June 13, 2022 and improperly issued its Order denying my Petition 8 days later on June 21, 2022 without allowing me to file a reply.

Therefore, as this Court's premature Order denied my right to reply to the City's baseless argument that an obviously unconstitutional Admin. Order violates the First Amendment right to gather news as clarified in Rule 2.450 and in both Florida and U.S. Supreme Court precedent, it is certainly appropriate, and much less embarrassing, for me to raise this issue before this Court instead of raising it before the Florida Supreme Court and/or the U.S. Supreme Court.

III. The City didn't object to my recording of the proceeding in the lower court, and therefore, this Court should not entertain its objection to the relief requested in my Petition.

Counsel for the City did not object to my recording of the proceeding in the lower court and did not raise any failure to comply with the Sixth Judicial Circuit's unconstitutional and

invalid Administrative Order No. 2008-076 PA/PI-CIR as a basis to prevent my recording of the proceeding in the lower court, and therefore, this Court should not entertain the City's objection now. See a copy of the transcript of the proceeding in the lower court in the Petitioner's Appendix B to this reply.

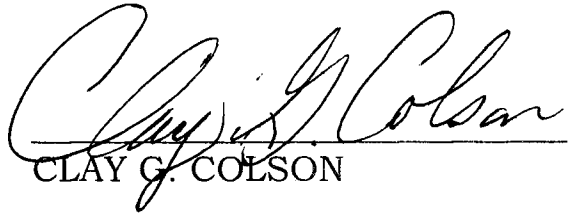
Furthermore, I have been informed that counsel for the City did not request or receive permission from the City to object to my effort to record proceedings in the lower court.

Moreover, JUDGE MUSCARELLA did not prohibit me from recording the proceedings in the lower court because I had not requested permission pursuant to such Admin. Order. Instead, JUDGE MUSCARELLA stated, "It's against all the rules to record anything, Mr. Colson." Thus, showing a clear bias against the First Amendment right to gather news by recording proceedings.

Therefore, my Petition for an order compelling JUDGE PATRICIA ANN MUSCARELLA and any other judge presiding over proceedings in the lower court to allow me to make audio and/or video recordings of all proceedings should be granted, or at the least, this Court should order JUDGE MUSCARELLA to notify the local news media that she has set a hearing in the proceedings in

the lower court to consider restricting news gathering in such proceedings and require JUDGE MUSCARELLA to have some evidentiary basis that is approved by precedent before denying any future request to record proceedings.


Respectfully submitted,



CLAY G. COLSON

CERTIFICATE OF SERVICE

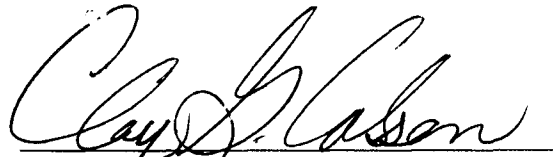
I hereby certify that a copy of this petition has been served by U.S. Mail to Jay Daigneault, Esq. of Trask Daigneault, LLP counsel for the City of Tarpon Springs, Florida at 1001 S. Fort Harrison Ave., Suite 201 in Clearwater, FL 33756 and to Judge Patricia Ann Muscarella at 315 Court St., Room 423 in Clearwater, FL 33756 on this 18th day of August, 2022.



CLAY G. COLSON
4318 Joy Drive
Land O'Lakes, FL 34638
813-601-3391

CERTIFICATE OF COMPLIANCE

I hereby certify that this complies with the applicable font and word limit requirements of the Florida Rules of Appellate procedure.



CLAY G. COLSON

IN THE DISTRICT COURT OF APPEAL
FOR THE SECOND DISTRICT
STATE OF FLORIDA

CLAY G. COLSON,

Petitioner,

Case No.: 2D22-1756

L.T. No.: 21-005793-CI

v.

JUDGE PATRICIA ANN MUSCARELLA
and THE CITY OF TARPON SPRINGS,
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Respondents. _____/

**APPENDIX TO PETITIONER'S REPLY TO OR MOTION TO
STRIKE THE RESPONSE TO PETITIONER'S MOTION FOR
REHEARING AND MOTION FOR REHEARING EN BANC**

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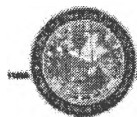
Appendix A

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REGISTER OF ACTIONS

CASE No. 21-005793-CI



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CLAY G COLSON Vs. CITY OF TARPON SPRINGS FLORIDA

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Case Type: DECLARATORY - CIRCUIT

Date Filed: 12/09/2021

Location: Section 7

Judicial Officer: MUSCARELLA, PATRICIA ANN

UNIFORM CASE NUMBER: 522021CA005793XXCICI

PARTY INFORMATION

DEFENDANT CITY OF TARPON SPRINGS FLORIDA

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PLAINTIFF COLSON, CLAY G
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LAND O LAKES, FL 34637

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS

08/05/2022 **RESPONSE** Doc # 48
TO PLAINTIFF S VERIFIED MOTION FOR REHEARING

07/25/2022 **AMENDED MOTION** Doc # 47
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Party: COLSON, CLAY G

07/22/2022 **RESPONSE** Doc # 46
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07/13/2022 **MOTION** Doc # 44
FOR REHEARING OF ORDER DISMISSING ACTION W/ATTACHMENTS
Filed by: COLSON, CLAY G

06/28/2022 **ORDER DENYING** Doc # 41
PLAINTIFFS MOTION TO ENLARGE TIME TO FILE AN AMENDED COMPLAINT

06/28/2022 **ORDER DENYING** Doc # 42
PLAINTIFFS MOTION FOR RECONSIDERATION

06/28/2022 **CORRESPONDENCE TO COURT RE** Doc # 43
PROPOSED ORDER

06/21/2022 **DCA ORDER** Doc # 40
DENYING THE PETITION TO REVIEW ORDER EXCLUDING PRESS COVERAGE OF PROCEEDINGS IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT, IN AND FOR PINELLAS COUNTY, FLORIDA, WITHOUT PREJUDICE TO PETITIONER'S SEEKING PERMISSION TO RECORD FUTURE PROCEEDINGS IN ACCORDANCE WITH SIXTH JUDICIAL CIRCUIT ADMINISTRATIVE ORDER NO. 2008-076 PA/PI-CIR. / 2D22-1756

06/20/2022 **CORRESPONDENCE TO CLERK RE** Doc # 39
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06/17/2022 **NOTICE** Doc # 38
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06/08/2022 **PLTF-PET'S MOTION FOR RECONSIDERATION** Doc # 34
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06/08/2022 **MOTION** Doc # 35
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Filed by: COLSON, CLAY G

06/03/2022 **COPY Doc # 33**
OF CORRESPONDENCE TO SECOND DCA RE: THE PETITION TO REVIEW ORDER EXCLUDING PRESS COVERAGE RECEIVED BY COURT 06/02/2022 2D22-1756

06/02/2022 **DCA ORDER Doc # 32**
BY 06/12/2022 PETITIONER SHALL SUPPLEMENT THE APPENDIX WITH EITHER WRITTEN ORDER OR TRANSCRIPT OF THE TRIAL JUDGE'S ORAL PRONOUNCEMENT. RESPONDENT SHALL SERVE A RESPONSE TO THE PETITION WITHIN 10 DAYS. 2D22-1756

06/01/2022 **LETTER FROM 2ND DCA RE ASSIGN APPEAL NO. Doc # 30**
2D22-1756

06/01/2022 **DCA ORDER Doc # 31**
APPROVING AFFIDAVIT OF INSOLVENCY/INDIGENT AND ACCOMPANYING MOTN FILED ; FILING FEE NOT REQUIRED. 2D22-1756

05/31/2022 **RESPONSE Doc # 28**
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05/31/2022 **NOTICE OF SERVICE OF INTERROGATORIES Doc # 29**
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05/25/2022 **ORDER DENYING Doc # 27**
MOTION TO DISQUALIFY JUDGE

05/20/2022 **MOTION Doc # 25**
TO DISQUALIFY JUDGE PATRICIA ANN MUSCARELLA
Filed by: COLSON, CLAY G

05/20/2022 **APPLICATION FOR INDIGENT STATUS APPROVED Doc # 26**
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05/17/2022 **MOTION TO COMPEL DISCOVERY Doc # 20**
Party: CITY OF TARPON SPRINGS FLORIDA

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Party: CITY OF TARPON SPRINGS FLORIDA

05/17/2022 **EXHIBIT Doc # 22**
NOTICE OF SERVING FIRST SET OF INTERROGATORIES

05/17/2022 **EXHIBIT Doc # 23**
LETTER DATED 04182022

05/17/2022 **NOTICE Doc # 24**
OF REQUEST FOR COURT TO CONSIDER MOTION TO COMPEL DISCOVERY WITHOUT HEARING

05/10/2022 **ORDER GRANTING Doc # 18**
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05/10/2022 **CORRESPONDENCE TO COURT RE Doc # 19**
PROPOSED ORDER - RCVD BY COURT 05062022

03/16/2022 **NOTICE OF HEARING Doc # 17**
(CROSS TELEPHONIC) 05022022 11:00

03/09/2022 **REQUEST FOR PRODUCTION Doc # 15**

03/09/2022 **NOTICE OF SERVICE OF INTERROGATORIES Doc # 16**

03/07/2022 **NOTICE OF HEARING Doc # 12**
05022022 11:00 TELEPHONIC

03/07/2022 **MOTION TO INTERVENE Doc # 13**
FILED BY MORGAN GROUP DEVELOPMENT LLC

03/07/2022 **EXHIBIT Doc # 14**
COMPOSITE A- COPIES ORDERS

01/31/2022 **NOTICE OF CANCELLATION Doc # 11**
OF TELEPHONIC HEARING 03312022

01/26/2022 **SUMMONS - SERVED Doc # 10**
01252022
Party: CITY OF TARPON SPRINGS FLORIDA

01/25/2022 **SUMMONS - ISSUED Doc # 7**
AMMENDED
Party: COLSON, CLAY G

01/25/2022 **DEF-RESP'S MOTION TO DISMISS Doc # 8**
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01/25/2022 **NOTICE OF HEARING Doc # 9**
03312022 10:15 TELEPHONIC

01/19/2022 **NOTICE OF APPEARANCE Doc # 6**
Party: CITY OF TARPON SPRINGS FLORIDA

12/17/2021 **DEF-RESP'S MOTION Doc # 5**
TO QUASH PROCESS AND SERVICE OF PROCESS

12/14/2021 **SUMMONS - SERVED Doc # 4**
12/10/2021
Party: CITY OF TARPON SPRINGS FLORIDA

12/10/2021 **SUMMONS - ISSUED Doc # 3**
NCB - GIVEN TO PLAINTIFF FOR PROCESS SERVER
Party: CITY OF TARPON SPRINGS FLORIDA

12/09/2021 **COMPLAINT Doc # 1**

12/09/2021 **ATTACHMENT Doc # 2**
ORDINANCE

FINANCIAL INFORMATION

PLAINTIFF COLSON, CLAY G



Court Ordered

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Fines, Fees, Costs?

	Total Financial Assessment			423.15
	Total Payments and Credits			423.15
	Balance Due as of 08/14/2022			0.00
12/09/2021	Transaction Assessment			400.00
12/09/2021	Counter Payment	Receipt # CV-2021-29455	COLSON, CLAY G	(400.00)
12/10/2021	Transaction Assessment			10.00
12/10/2021	Counter Payment	Receipt # NC-2021-10328	COLSON, CLAY G	(10.00)
01/25/2022	Transaction Assessment			10.00
01/25/2022	Counter Payment	Receipt # NC-2022-00657	COLSON, CLAY G	(10.00)
07/13/2022	Transaction Assessment			3.15
07/13/2022	Counter Payment	Receipt # CV-2022-16516	COLSON, CLAY G	(3.15)

Appendix B

1 IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
2 IN AND FOR PINELLAS COUNTY, STATE OF FLORIDA
3 CIVIL DIVISION
4

5 CLAY G. COLSON,
6 Plaintiff,

Case No. 21-005793-CI

7 vs.

8 THE CITY OF TARPON SPRINGS, FLORIDA,
9 Defendant.
10

11 PROCEEDINGS HELD TELEPHONICALLY
12

13 PROCEEDINGS: DEFENDANT'S MOTION TO DISMISS FOR
14 FAILURE TO JOIN INDISPENSABLE PARTIES

15 BEFORE: The Honorable Patricia Muscarella
16 Circuit Court Judge

17 DATE: May 2, 2022
18 11:09 a.m. - 11:24 a.m.

19 REPORTED BY: Annemarie Christodoulou
20

21 PLACE: Pinellas County Courthouse
22 315 Court Street, 4th Floor
23 Clearwater, Florida 33756
24

25
MAXA ENTERPRISES, INC.
1275 Cleveland Street
Clearwater, Florida 33755
(727) 441-2404 Fax: (727) 448-0028

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Phone: 813-221-3900
Counsel for the Intervener

ALSO PRESENT:

Clay Colson, pro se

1 **THE COURT:** This is Clay Colson vs. City of Tarpon
2 Springs. This is defendant's motion to dismiss for
3 failure to join indispensable parties. Who is here on
4 behalf of the plaintiff?

5 **MR. COLSON:** Yes, Your Honor. I'm here.

6 **THE COURT:** Mr. Colson is that you or are you
7 represented?

8 **MR. COLSON:** No, it's me. I represent myself pro
9 se, Your Honor.

10 **THE COURT:** Okay. Great. Thank you. And for the
11 defense?

12 **ATTORNEY DAIGNEAULT:** Good morning, Your Honor.
13 Jay Daigneault on behalf of the City of Tarpon Springs.

14 **THE COURT:** Okay. Thank you. So it's your
15 motion --

16 **THE COURT REPORTER:** And I'm sorry, Your Honor, a
17 court reporter is on the line also.

18 **THE COURT:** Oh, sorry. Who else is on the line?
19 Is there a court reporter?

20 **THE COURT REPORTER:** Yes, Your Honor.

21 (An unknown speaker speaks.)

22 **THE COURT:** I think we have two court reporter's
23 is that right?

24 **UNKNOWN SPEAKER:** Yes.

25 **THE COURT REPORTER:** I am here for Colson vs. City

1 of Tarpon Springs, and I was hired by Mr. Daigneault's
2 office. This is Annemarie with Maxa Enterprises.

3 **THE COURT:** Mr. Colson, did you hire a court
4 reporter?

5 **MR. COSTELLO:** Your Honor, there is an additional
6 appearance. Your Honor, my name is Shane Costello. I
7 represent the intervener. We filed a notice to
8 intervene that is set for hearing, and my office also,
9 I guess, secured a court reporter.

10 **MR. COLSON:** The response to your question, Your
11 Honor. I'm just recording this. I don't have a court
12 reporter.

13 **THE COURT:** It's against all the rules to record
14 anything, Mr. Colson.

15 **MR. COLSON:** Oh, it is?

16 **THE COURT:** Yes. You have to stop and erase what
17 you have now.

18 **MR. COLSON:** I will stop it now.

19 **THE COURT:** And erase whatever you have.

20 **UNKNOWN SPEAKER:** And, Your Honor, this is the
21 court reporter Mr. Costello hired.

22 **THE COURT:** Who is Mr. Costello?

23 **ATTORNEY COSTELLO:** Your Honor, Shane Costello, I
24 just announced my appearance. I'm on behalf of the
25 intervener, Morgan Group Development, we filed a motion

1 to intervene that is connected with the City's motion
2 to dismiss for failure to join an indispensable party.
3 We are that indispensable party. So those are the two
4 matters set for hearing today.

5 **UNKNOWN SPEAKER:** Your Honor, I'm okay with
6 signing off and letting the other court reporter stay
7 on who originally set the motion to dismiss.

8 **ATTORNEY DAIGNEAULT:** That's correct.

9 **THE COURT:** I think that's the proper thing. I
10 never say your name right, Mr. Daigneault. You have to
11 tell me one more time how to say your name.

12 **ATTORNEY DAIGNEAULT:** It's Daigneault, Your Honor.

13 **THE COURT:** Spell it for me phonetically, so I
14 never forget this again.

15 **ATTORNEY DAIGNEAULT:** It's a Great Dane dog and a
16 yo-yo.

17 **THE COURT:** Daigneault. All right. So if you are
18 in agreement for keeping your court reporter and
19 releasing everyone else that would be fine with me.

20 **ATTORNEY DAIGNEAULT:** I think that's fine.
21 Thanks, Your Honor.

22 **THE COURT:** Okay. So the other court reporter is
23 released and will not be recording this at all.

24 **UNKNOWN SPEAKER:** Thank you.

25 **THE COURT:** Okay. Mr. Daigneault, this is your

1 motion. The other motion to intervene was added time
2 permitting. I have an 11:30, and so would you like to
3 proceed.

4 **ATTORNEY DAIGNEAULT:** Yes, Your Honor. Thank you.
5 And I will be brief respecting the Court's time with a
6 second motion that we'd like to have -- be heard in
7 resolving. So in short, Your Honor -- challenge --

8 **THE COURT:** Mr. Daigneault, you are breaking up.
9 I apologize. But I cannot hear you very well.

10 **ATTORNEY DAIGNEAULT:** Is that better?

11 **THE COURT:** That is better. Thank you.

12 **ATTORNEY DAIGNEAULT:** All right. So we're here on
13 two development orders issued by the City regarding the
14 Anclote Harbor residential planned development. The
15 first order is Ordinance Number 2021-15. The second is
16 a Resolution Number 2021-60.

17 These development orders are in service of and
18 paved a way, if you will, for development called
19 Anclote Harbor that is proposed undertaken by Kamil
20 Salame and the Morgan Group Development, LLC, which is
21 the contract purchaser and proposed developer of the
22 development project up in Tarpon Springs.

23 Because they are the contract purchaser, they are
24 very much of a real party of interest in this case as
25 set forth in the City's motion, particularly the Two

1 Island Development case, cannot proceed without them.
2 Their presence is necessary for the Court to make a
3 complete determination of the parties' rights, duties
4 and obligations in the case.

5 So pursuant to Rule 1.210(1), as well as the case
6 law cited within the motion, which includes *Santiago*
7 *vs. Sunset Cove Investments*, and *Two Island Development*
8 *Corporation vs. Clarke*, which I know also that the
9 proposed intervenor relies upon in its motion.

10 The intervenor and Morgan Development needs to be
11 a party to this case because it's really their rights
12 that are at issue here. Whether these development
13 orders comply with the City's Comprehensive Plan,
14 certainly the City is required to be a party, but due
15 to the contract purchase status and the development
16 proposed by intervenor they need to be a party. We had
17 a similar fact pattern in the *Two Islands* case and this
18 case, according to the City, and we argue should be
19 decided similarly.

20 And so for that reason I think we probably should
21 discuss what is the appropriate remedy in the case.
22 The City here has moved for dismissal for failure to
23 join an indispensable party, and I think that dismissal
24 is really the appropriate remedy, wherein the plaintiff
25 would be permitted to amend his complaint to determine

1 whether he wishes to add Morgan Development as the
2 developer, and if he chooses not to the case should not
3 proceed forward.

4 And with that I'm happy to answer any questions
5 that the Court has.

6 **THE COURT:** Thank you, Mr. Daigneault. I'd like
7 to hear -- Mr. Colson, would you like to respond to
8 that?

9 **MR. COLSON:** I would, Your Honor. My complaint is
10 with the City for its failure to do it's due diligence
11 in following its Comprehensive Plan, Land Development
12 Ordinances, and Land Development Codes in granting
13 this, which has nothing to do High Woods -- with the
14 Morgan Group.

15 In the High Wood's case was an appellate review of
16 the City's decision. However, this action is a de novo
17 review of the development under Florida Statutes
18 Section 163.3215(3); and, therefore, as recognized by
19 the court in High Woods the Florida Rules of Appellate
20 Procedure do not apply because this is an action
21 provided by general law and is not an appellate review
22 of Tarpon's decision.

23 Therefore, the Second DCA holding in the *City of*
24 *St. Pete vs. Marelli* and the Florida Supreme Court
25 holding in *Brigham vs. Dade City* -- or Dade County that

1 the property owner is not an indispensable party
2 prohibits Morgan Group's intervention as well requires
3 a denial of Tarpon's motion to dismiss.

4 **THE COURT:** Okay. Thank you. Now I'd like to
5 hear from the intervener.

6 **ATTORNEY COSTELLO:** Yes, Your Honor. We're in
7 agreement with the motion to dismiss for failure to
8 join an indispensable party. As we've laid out in the
9 motion to intervene, Morgan is the contract purchaser,
10 is the equitable titleholder to the property. It is
11 the real party of interest that stands to gain or lose
12 from the outcome of this proceeding.

13 If the Court rules in the plaintiff's favor in
14 this proceeding, Morgan will not be able to complete
15 the development of its property as has been approved by
16 the City. So Morgan certainly meets the test for
17 intervention, which is whether you stand to gain or
18 lose by the outcome of the proceeding.

19 And as Mr. Daigneault argued, Morgan is, in fact,
20 a necessary, or indeed, an indispensable party in this
21 proceeding. The test of an indispensable party is
22 whether it is impossible to completely adjudicate the
23 matter without affecting the interests of that party,
24 the *Two Island* case that Mr. Daigneault cited.

25 Plaintiff in this action, their request for relief

1 would include an injunction preventing the development
2 of my client's property. That most certainly affects
3 my client's interest. Likewise, the test for a
4 necessary party is whether the person is materially
5 interested in the subject matter and would be directly
6 affected by an adjudication, and we certainly would.

7 These clients cannot be adjudicated without
8 affecting Morgan's private property rights and
9 entitlements on the property. And so we would request
10 that Morgan be included in this case as a party
11 defendant.

12 **THE COURT:** Okay. Mr. Colson?

13 **MR. COLSON:** As pointed out earlier, Your Honor,
14 the Morgan Group had nothing to do with the decision
15 rendered by the City of Tarpon Springs, other than
16 applying for it, and the City of Tarpon Springs failed
17 to follow its own rules and regulations in the
18 Comprehensive Plan in issuing that development order.
19 So it's moot whether or not Morgan is going to be
20 affected or not as being the intervener in this.

21 The complaint is strictly about whether or not the
22 City Commission of Tarpon Springs followed its rules
23 and regulations in granting them that order. If they
24 did not do that, then they have no standing.

25 **THE COURT:** Okay. So I am going to grant the

1 motion to dismiss without prejudice.

2 Mr. Colson, you may -- how many days would you
3 like to amend your pleading?

4 **MR. COLSON:** Well, motion to dismiss, I'd like to
5 ask for 30 days to file an amended complaint since I am
6 pro se plaintiff and needs extra time.

7 **THE COURT:** Okay. That's fine with me.

8 Provide an order -- I guess, Mr. Daigneault, would
9 you provide the order? It's your motion. And run it
10 around for everyone.

11 I don't know, Mr. Colson, are you associated in
12 JAWS in some way or would you like hard copies of
13 everything?

14 **MR. COLSON:** Hard copies. I don't have internet
15 access and want everything by U.S. mail, please.

16 **THE COURT:** Okay. So, Mr. Daigneault, would you
17 provide that, run it by Mr. Colson if you can.

18 Do you have email, Mr. Colson?

19 **MR. COLSON:** I do not.

20 **THE COURT:** Okay. So I guess you just send me
21 hard copies with your proposed order, and we will
22 proceed.

23 **MR. COLSON:** Thank you so much, Your Honor.

24 **ATTORNEY DAIGNEAULT:** Your Honor, do you want me
25 to run the order by Mr. Colson for form approval or

1 would you rather that I simply copy him on it and copy
2 to Your Honor as well?

3 **THE COURT:** I don't think it's complicated for a
4 motion to dismiss for failing to include an
5 indispensable party is -- the motion to dismiss is
6 granted, 30 days leave to amend. So I think it's
7 pretty simple. I think a copy to Mr. Colson is fine.

8 **ATTORNEY DAIGNEAULT:** Agreed. Thank you, Your
9 Honor.

10 **THE COURT:** Okay. Anything else for today?

11 **MR. COSTELLO:** No, Your Honor.

12 **ATTORNEY DAIGNEAULT:** No, Your Honor. Thank you
13 for your time.

14 **THE COURT:** Okay. If you need to address the
15 intervenor motion that was -- just leave it for now?

16 **MR. COSTELLO:** I don't think it -- Your Honor,
17 this is Shane Costello. I don't think it needs to be
18 addressed given the ruling on the motion to dismiss.
19 Mr. Colson will either need to include Morgan Group as
20 a party defendant in his amended complaint or the
21 action would be dismissed.

22 **THE COURT:** Okay. Thank you, everyone.

23 (The hearing was concluded at
24 11:24 a.m.)
25

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF PINELLAS)

I, Annemarie Christodoulou, Court Reporter,
certify that I was authorized to and did stenographically
report the foregoing proceedings in CLAY G. COLSON vs. THE
CITY OF TARPON SPRINGS, Case Number 21-005793-CI, held on
May 2, 2022 before the Honorable Patricia Muscarella held
telephonically; and that the transcript, pages numbered 1
through 13, inclusive, is a true and complete record of my
stenographic notes.

I further certify that I am not a relative,
employee, attorney, or counsel of any of the parties, nor am
I a relative or employee of any of the parties' attorney or
counsel connected with the action, nor am I financially
interested in the action.

Annemarie Christodoulou
ANNEMARIE CHRISTODOULOU
Court Reporter