

E. CITY inspector Lezama inadvertently testified, with CITY Attorney Min present that Plaintiff's operated "whatever business they're operating" out of 3270 Gifford Lane. Min was miffed and testified he (Min) "wanted to make it clear" that Mr. Steppe's address was 3268 Gifford Lane" Min exceeded logic, reason and good taste as an officer of the courts and testified that Plaintiff's had a porch! If CITY had a case, why trespass, lie, misrepresent alleged facts and deny Plaintiff's due process?

footnote: *The purpose of zoning and code enforcement is to insure the safety, health and welfare of citizens.*

A. Plaintiff MARIA is a kindergarten administrator, has nothing to do with Plaintiff EUGENE STEPPE'S art, yet was named as a defendant only because she is listed as joint owner of the targeted property and has suffered damages and the loss of her home.. The application of a lien on her portion of the property is contrary to Florida State Law. CITY was interviewed by FOX News and advised in an e-mail CITY had only 12 hours invested in this case, but if they should prevail CITY would present a bill that far exceeds \$200,000.00, defending against Plaintiff's. Since that is not at issue in this Complaint Plaintiff's will not produce a copy - - - now.

B. Plaintiff EUGENE practices art as therapy and uses the art in front of his home, on an easement right of way, to create light hearted conversation and enjoy companionship. Under what law can fines and liens be transposed to their property from activity allegedly that took place on public property? What if Plaintiff produced his art in any other public space, say for example, in Fort Pierce, Florida or Key West, or Miami Beach, or Naples, Florida or at a Miami CITY park?.

C. CITY Attorney Barnaby Min misrepresented every aspect of alleged facts to a CITY hearing board to influence the board to cast a guilty vote and his lies succeeded.

D. Min's lies were deliberate and directly the cause of the guilty vote and a lien placed on Plaintiff's property and represent an illegal taking without compensation.

E. Any human would be hard pressed to conclude that such an act and series of events are positive, unless they were leaders in Hitler's or Castro's regime...

F. It was Min's intention to cause harm to MARIA and EUGENE STEPPE.

G. "IF" it is the intention of zoning ordinances to ensure the safety, health and welfare of citizens, and not used as a tool to harass and cause harm, why, in this instance did three (3) CITY code inspectors issue nine (9) alleged violations, one which read Plaintiff's property represented "HAZARDOUS CONDITIONS TO LIFE & PROPERTY" and take no action to ensure that the alleged violations had been cleared.

H. The only action CITY took was to conduct a kangaroo hearing and place liens on Plaintiff's property. How does this ensure the safety, health and welfare of the community? Whatever Plaintiff's were doing then, they are doing now!

CONCLUSION: There were no code violations. The entire CITY effort was THE INTENTIONAL and NEGLIGENT INFLICTION OF EMOTIONAL HARM AND DISTRESS and CITY succeeded acting out under the color of law.

98. There is a **common thread** that binds numerous events, human activity and reports, taking place over a period of about 12 months proving complicity whose only goal was to cause Plaintiff's intentional harm.

A. CITY inspectors: Lezama, Ortiz and Canales and CITY Attorney Min each lied and misrepresented that 3268 Gifford Lane was the target property.

B. Plaintiff's were summoned to CITY Hall, in front of a CITY hearing Board, two (2) CITY Attorney's, one (1) CITY witness, resulting in a CITY report titled Finding of Facts, (that contained no facts), a CITY fine, and a CITY lien, filed at a CITY records department, downtown in the CITY of Miami.

C. That common thread is CITY, CITY and CITY, as indicated in "A & B" above.

footnote: Is this why the United States Department of Justice breaks up monopolies?

99. Plaintiff wrote 31 registered letters to; the Mayor, CITY Manager, Plaintiff's commissioner, the CITY Attorney's Office, CITY'S manager & chief of CITY code enforcement, the CITY hearing Board and the CITY'S Grand Master in

charge of sorting this sort of thing out, and additionally called each one several times.

No one from CITY responded, but they were informed by Plaintiff and interviewed

by the press and were advised that they were harming Plaintiff's.

See: *Viehweg v. Vic Tanny Intern. of Missouri, Inc.*, 732 S.W.2d 212, 213 (Mo.App1987).

100. Plaintiff has been treated by the V.A. since 1964, and are prepared to present a package of medical records indicating Plaintiff required medical intervention related to the stress caused by CITY'S actions against Plaintiff's. See:

Bass v. Nooney Co., 646 S.W. 2d 765, 772-773 (Mo. banc 1983); *See Hyatt*, 943 W.W.2d at 297; *see also Younty*, 664 S.W. 2d at 265; *see: Polk v. INROADS/St .Louis Inc.*, 951 S.W. 2d 646, 648 (Mo.App. E.d. Jul 22, 1997). The V.A. paid for the 1st invasive heart procedure, Plaintiff's much pay for the second.

101. CITY'S actions against Plaintiff's to satisfy a vendetta is extreme and outrageous in character and so extreme in degree, as to go beyond all possible bounds of decency, and should be regarded as atrocious, and utterly intolerable in a civilized community.

102. On June 26, 2008, CITY inspector Lezama advised Plaintiff, "You won't make it in Miami if you don't learn how to speak Spanish.

103. On October 19, 2009, CITY inspector Canales, trespassing with three (3) additional CITY inspectors, (names not known) upon (See attached exhibit "D") asked Plaintiff "Are you an agent for Fidel Castro"?

104. On September 10, 2008, at the hearing at CITY Hall, CITY attorney Barnaby Min remarked to Plaintiff, "You've angered a lot of Cubans at CITY Hall".

A. Plaintiff's are not remotely political. Plaintiff EUGENE thinks religion and borders separate the people into competing groups causing needless conflict and wars.

B. Plaintiff spent 93 days in a Cuban prison and throughout life has enjoyed adventures. Plaintiff heard George Bush Jr. call Cuba, Venezuela, Iran, Iraq and N. Korea evil empires and enemies of the free world, so Plaintiff produced five pieces of mosaic art similar to exhibit "D" and sent a copy to the leaders of these five (5) countries, to their representatives at the United Nations and one (1) each to the White House - - - why? I don't know, respectfully, because I felt like it. Note: in exhibit "D", the entire mosaic is 3 x 5 feet and is made of 18 smaller tiles to form a mosaic. Note: at the bottom right side each tile a little black line, which reads artbyjobie. CITY speculates this signature represents a FOR SALE sign, (another CITY misrepresentation) this is merely how Plaintiff decided to sign his art mosaics.

C. Plaintiff has displayed exhibit "D", at home shows, Calle Ocho, The Ladies in White march on 8th Street sponsored by Gloria Estafan, the Cuban Museum and other venues and every time Plaintiff meets a Cuban if one of these tiles are available I give it to them free and have probably given away about 500. For me, this represents friendship between the Cuban people and American's.

D. Why would three employees from CITY advise me to learn Spanish or infer that I'm a Cuban agent and that I've made enemies at Miami CITY Hall? Three indicates Complicity!

108. Plaintiff's marriage has suffered, but both Plaintiff's are aware of the source of the problem and have applied caution and restraint.

WHEREFORE, Plaintiff's demand compensatory damages of \$200,000.00, plus reasonable attorney's fees of \$176,000.00, cost and other relief that this Honorable Court deems appropriate.

I. RELIEF SOUGHT

Plaintiff's seek \$200,000.00, damages for each count, plus reasonable attorney's fees, cost or other relief that this Honorable Court finds reasonable.

Order CITY to answer the Discovery, Interrogatories and Documents Request.

CITY appears to have an interest in Plaintiff's home, so let CITY have it and their liens. Award damages to Plaintiff's and transfer ownership and the liens to CITY.

Plaintiff request this court quash the determination of the MIAMI CODE ENFORCEMENT BOARD, because the Final Administrative Enforcement Order departed from the essential requirements of the law. CITY denied Plaintiff's due process and the findings were not supported by substantial competent evidence, contained lies, misrepresentation, and contradictions related to any and all alleged facts.

Plaintiff's request that this court return this case back to the CITY and the CITY of Miami code enforcement hearing Board to be adjudicated in the light of day, CITY won't make the same mistakes twice.

II. ARGUMENT.

A. THE CODE ENFORCEMENT BOARD DEPARTED FROM THE ESSENTIAL REQUIREMENTS OF LAW BECAUSE IT FAILED TO FOLLOW THE PRECEDENT SET IN THE "SUPREME LAW OF THE LAND" in McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316, 4 L. Ed. 579 (1819).

Articles or information obtained during an illegal unwarranted search shall not be

admissible in evidence if such articles or information would be inadmissible under decisions of the United States Supreme Court construing the 4th Amendment to the United States Constitution “[6] See: BOYD v. U.S. 116 U.S. 616 (1886 and MIRANDA v. ARIZONA, 384 U.S. 436 (1966).

Plaintiff has delusions of grandeur that CITY cannot take their home in the United States by using lies and misrepresentations. If Plaintiff’s are wrong, then 9/11 was an appropriate response to injustice.

III THE DECISION OF THE CODE ENFORCEMENT BOARD IS NOT SUPPORTED BY COMPENTENT, SUBSTANTIAL EVIDENCE.

The transcript proves that the only witness against Plaintiff’s at a hearing, CITY inspector Lezama testified he had no proof that Plaintiff’s had ever sold anything to anyone at any time from 3268 Gifford Lane.

CITY Attorney Barnaby Min was miffed and began testifying by asking Lezama six (6) misleading leading questions containing misrepresentations which Lezama affirmed, by merely saying; Generally, see the transcript D.E. 34-1;

“Yes I did” and “Right” and “Correct” and “That is correct” and “Yes” and “Right”.

Boards members sealed the casket, administering the final cout de ta and stated: “Look like a duck, quacks like a duck” and said that Plaintiff’s were operating a business out of their home that “*exchanged emotions*” and that such an exchange represented a non-profit business and CITY code violation.

The Board didn’t know that by Florida Statutes only commercial and residential structures made of brick and mortar are adjudicated during zoning hearings, not people. The board had just voted Plaintiff rental property, made of brick and mortar guilty of

exchanging emotions and the lien applied has accrued past \$340,000.00!

footnote: Plaintiff does not want to appear flipped *slang*, but, Plaintiff is only quoting, directly, word for word what the Board said and the manner in which the evidence presented by CITY and/or CITY employees, one being an officer of the Courts and

Plaintiff's respectfully ask this Honorable Court "Please don't kill the messenger"!

because

Plaintiff's did not ask to be here.


CRISTINA and EUGENE STEPPE
3270 Gifford Lane
Coconut Grove, Florida 33133
305-447-6526

PLAINTIFF'S HEREBY CERTIFY that a true and correct copy has been faxed and mailed to Mr. John Greco and Ms. Victoria Mendez to The City Attorney's Office Miami Riverside Center 444 S.W. 2'd Avenue, Suite 945, Miami, Florida 33130-1910 on the 26th day of September, 2011.

Plaintiff sustained traumatic brain injury serving in the U.S. Army in 1963. In 1963 this type of injury was called a fractured skull. Eventually Plaintiff was returned to duty and several months later received an honorable discharge.

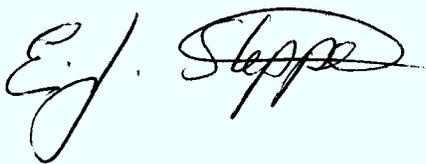
As implausible as it may appear, Plaintiff was not notified he had Traumatic Brain Damage until March 19, 2009, see the attached letter in exhibits "A". The brain damage caused profound changes in Plaintiff's personality and short term memory deficit. The fact is Plaintiff did not know he had suffered a fractured skull and/or this new diagnoses of Traumatic Brain Damage until 2009.

After service in the U.S. Army Plaintiff returned home and was soon advised by many of his high school friends he had changed, more to the point Plaintiff was advised he was a butt hole, was argumentative, hostile and aggressive. Plaintiff does not remember ever comparing his personality before, and then after the brain injury, Plaintiff realized he was headed for trouble, purchased a large vessel and for the next 35 years, or so, went to sea; Bahamas and throughout the Caribbean, went under water and caught lobster; away from civilization and people and later renovated houses, living a life of isolation.

A man named Victor J. Logan was charged with attempted murder and Plaintiff was listed as a witness, about 1993 or 94, Logan had friends at Miami CITY Hall and the police department. CITY police came to Plaintiff's home, broke two ribs and caused other injuries and arrested Plaintiff for DUI. Plaintiff was hospitalized for about 7 days, went to Court about 20 times in front of Judge Milian, who ordered Plaintiff to take about 6 psychological evaluations that read Plaintiff was incompetent; see attached exhibits "A". Judge Milian ordered Plaintiff to be fingerprinted and it was determine someone at the CITY police department had switched names, Plaintiff was found not guilty, see attached fingerprint report. Over the months Plaintiff was hospitalized twice from injuries sustain from CITY police officers. Plaintiff filed a federal complaint, but had developed a heart condition and had to abandon the complaint due to stress affecting his heart rhythm.

On 08/11/2006, CITY police arrested Plaintiff for criminal mischief, case # F06026636. Judge Soto ordered Plaintiff to take about 6 psychological evaluations, see attached exhibit's "A", that also read Plaintiff is incompetent. Plaintiff appeared in court 21 times until the system could not produce a witness to this criminal mischief charge and the case was dismissed.

On June 27, 2008, CITY code enforcement personnel began issuing Plaintiff and his wife 9 CITY code violations and guess what? Plaintiff's have no idea what CITY personnel are talking about and are waiting for the system to produce a CITY witness who makes sense and produces proof. Plaintiff has filed 2 legal complaints - - - lots of stress!

A handwritten signature in black ink, appearing to read "E.J. Stepp". The signature is written in a cursive, somewhat stylized font.



**Department of
Veterans Affairs**

PO BOX 1437
ST PETERSBRG FL 33731

March 19, 2009

=====
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=====
EUGENE J STEPPE
3270 GIFFORD LN
MIAMI FL 33133

In reply, refer to:


Dear Eugene Steppe,

The Department of Veterans Affairs (VA) is concerned about veterans who experienced head injuries during military service. Our records show that you received a disability rating for a service-connected traumatic brain injury (TBI).

Recent medical studies focusing on TBI now provide a more thorough understanding of this disability and the symptoms associated with it. VA responded to these studies by developing new criteria for evaluating TBI disability levels and the compensation payments associated with them. The new evaluation criteria became effective October 23, 2008.

You may have been rated before the new criteria became effective. If you still have residual symptoms, you may be re-examined based on the new criteria. This examination may result in a compensation increase even though your condition has not changed. You can request this examination through your local regional office on the enclosed VA Form 21-4138, *Statement in Support of Claim*. If you qualify for increased compensation, the increase may be paid up to one year retroactively, but not before October 23, 2008, when the new criteria went into effect.

As a disabled veteran, you may also be eligible for vocational rehabilitation benefits. The Vocational Rehabilitation & Employment (VR&E) Program can help you prepare for, get, and keep a suitable job. If you are too seriously disabled to work, the program can help you learn to live more independently. For more information, including how to apply, please review the enclosed forms, "Important Information about Vocational Rehabilitation Benefits," and the "Disabled Veterans Application for Vocational Rehabilitation."

Contact your local VA regional office or veterans service organization representative for additional information. You may also telephone the VA information line toll-free at 1-800-827-1000.

Sincerely,

B. C. GIBBARD
VETERANS SERVICE CENTER MANAGER

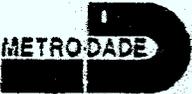
Enclosure: VAF 21-4138
VAF 28-1900
VAF 28-8890

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94-1583#16P ✓

METROPOLITAN DADE COUNTY, FLORIDA

METRO-DADE POLICE DEPARTMENT
9105 N.W. 25 STREET
MIAMI, FLORIDA 33172-1505



595-6263

March 28, 1996

TO WHOM IT MAY CONCERN;

A search of the Metro-Dade Police Department files under the name;

Steppe, Eugene Jobie

Date of Birth November 13, 1942

reveals the following;

- No Record
- Traffic Arrest/pending
- Misdemeanor Arrest/dismissed
- Felony Arrest/dismissed
- Other

FOR ADDITIONAL INFORMATION CONTACT;

County Court
Traffic Division
Room 124
1351 N. W. 13 Street
Miami, FL 33125

County Court
Room 701 (Misdemeanor Charges)
1351 N. W. 13 Street
Miami, FL 33125

Circuit Court-Criminal Division
Room 702 (Felony Charges)
1351 N. W. 13 Street
Miami, FL 33125

The fingerprint impressions appearing on this form are those of; Steppe, Eugene Jobie, W/M, DOB; 11/13/42, Blue Eyes, Blonde Hair. S.S. #267-62-4009. MDPD ID #157846.

This is not the same individual as; Robinson, Michael W., W/M, DOB; 03/30/57, Blue Eyes, Blonde Hair. S.S. #101-54-8951. MDPD ID #594343.

Arrested On; September 15, 1995
Charge; DUI, Ticket #295028X.

Fred Taylor
Director
By

[Signature]
Michael Collier

CRIME SCENE INVESTIGATION REPORT
IDENTIFICATION SECTION



INKED IMPRESSIONS OF STAMP

They succeed at work

Below are excerpts from remarks by U.S. Secretary of Labor Elaine L. Chao during the Aug. 20 launch of America's Heroes at Work — AmericasHeroesAtWork.gov — an online resource to help employers hire veterans with disabilities.

America's Heroes at Work focuses on the unique employment challenges of returning service members from Iraq and Afghanistan who are living with Traumatic Brain Injury (TBI) and Post-Traumatic Stress Disorder (PTSD).

This path-breaking project has a very important purpose: to help these transitioning veterans succeed in the workplace.

Surveys of veterans of the Iraq and Afghanistan wars have shown that a number of them are suffering from depression or stress disorders and that a number of veterans may have experienced a TBI. These injuries are also experienced by our heroes here at home — our police, firefighters and other first responders.

Our men and women in uniform were there for us. So it's our turn to be here for them.

These injuries and conditions can lead to many physical challenges, including vertigo, balance problems, anxiety and sleep disturbance. And they can cause cognitive issues including short-term memory deficits, poor concentration and decision-making difficulties.

As our brave service men and women transition back into civilian life, we know that injuries can create barriers to success in the workplace. But we also know that putting workplace supports into action can help the individuals succeed and that employment can play a major role in their recovery.

Employers understand this, and they want to help. We are here to help by providing employers with the support and education they need to help returning service members with these particular injuries succeed in the workplace.

That's what America's Heroes at Work is all about. We've launched a comprehensive website — www.AmericasHeroesAtWork.gov — that educates employers, human resources professionals and the workforce development system on accommodations they can make for workers with TBI and PTSD. . . .

An honor to serve them

Whether workers are veterans, first-responders or those recovering from the effects of a head injury — they and their employers will benefit from this information.

America's Heroes at Work will also help dispel some of the myths related to people with these injuries and challenges. We want employers to know that 80 percent of TBI are mild concussions that will heal fully. And, that PTSD is nothing an employer should fear. Veterans, including those with disabilities, make exceptional workers who will bring bottom-line benefits to our nation's employers. . . .

Our men and women in uniform were there for us. So it's our turn to be here for them. It's a deep honor and a privilege to serve them in any way we can. One of the best ways we can help these courageous men and women and respect their sacrifice is to help them return to full, productive lives through work.

A correction

The Friday editorial *Cutting bus routes a betrayal to riders* should have said that the county would need to fund a \$9.4 billion 30-year deficit at transit to convince the federal government to help fund new train routes.

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DEPARTMENT OF VETERANS AFFAIRS
St. Petersburg Regional Office
P.O. BOX 1437
St. Petersburg FL 33731

JUN 06 2008

EUGENE J STEPPE
3270 GIFFORD LN
MIAMI, FL 33133

In Reply Refer To:

[Redacted]
STEPPE, Eugene J

Dear Mr. Steppe:

We made a decision on your claim for service connected compensation received on January 31, 2008.

This letter tells you what we decided. It includes a copy of our rating decision that gives the evidence used and reasons for our decision. We have also included information about what to do if you disagree with our decision, and who to contact if you have questions or need assistance.

What Did We Decide?

The claim for service-connection for the following conditions remains denied because the evidence submitted was not new and material:

Medical Description
Neurosis
Delusional disorder, paranoid type/paranoid personality disorder associated with traumatic brain disease

You were previously denied service connection for *Neurosis*. You were notified of the decision on *July 26, 1996*. The appeal period for that decision has expired and the decision is now final. In order for us to reopen your claim, we need *new and material* evidence.

[Redacted]
November 21, 2002

A



Eugene Steppe
page 4

10

nightmares, that he doesn't remember anything or has any memory of them afterwards but that he kicks his wife and attacks her in his sleep. He also broke his foot kicking the wall and "defending myself". I asked about memory problems and he told me that it was very annoying. That it doesn't stop and he might be standing in front of the tool boxes and has no memory of what he is doing there. If allowed, the defendant would go on and on talking about his own beliefs.

11

MENTAL STATUS EXAMINATION: At the time of this evaluation the defendant presented as a medium framed, clean and well groomed caucasian male, who was wearing a suit and tie. He wore glasses. Personal hygiene was adequate. Affect was somewhat restricted. Mood was labile as he seemed to become easily irritated and there was an underlying hostility. Memory seemed impaired. Speech was clear but he presented as someone who is extremely confused and has much difficulty answering questions directly. Train of thought is loose and disorganized. He appears to misperceive and distort events. He seemed quite suspicious and paranoid. Contact with reality is impaired. Insight and judgment are compromised. Frustration tolerance is very low.

12

SUMMARY AND CONCLUSIONS: The defendant is not competent to proceed. He appears to have a factual but not rational understanding of the charges and cannot communicate with counsel with a reasonable degree of rational understanding. An assessment of the various factors considered indicates:

A. The defendant's appreciation of the charges is acceptable factually; it would be very difficult to reason with the defendant,

* B. The defendant's appreciation of the range and nature of possible penalties is unacceptable;

C. The defendant's understanding of the adversary nature of legal process is acceptable factually;

* D. The defendant's capacity to disclose to attorney pertinent facts surrounding the alleged offense is unacceptable;

E. The defendant's ability to manifest appropriate courtroom behavior is questionable;

* F. The defendant's capacity to testify relevantly is unacceptable.

This made about November 2008

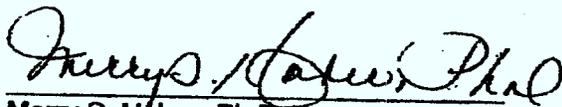
A

RE: EUGENE STEPPE
CC: F06-26636
Page 5 of 5

SUMMARY AND RECOMMENDATIONS:

Eugene Steppe is a 64-year old male who has a history of head injury since being in the military in 1961. Prior reports indicate that he may distort and magnify incidental behaviors into major insults and slanders, misinterpreting reality. He is Not Competent to Proceed and will likely not achieve competence in the foreseeable future. He has been deemed Not Competent since 1994. He does not meet criteria for involuntary Hospitalization as his condition is chronic. He is Not Competent to represent himself.

I HEREBY CERTIFY THAT I PERSONALLY CONDUCTED THIS EVALUATION AND ALL CONCLUSIONS REFLECTED ARE THOSE OF THIS EXPERT AND NOT THOSE OF ANY THIRD PARTY. I FURTHER CERTIFY THAT THE PREPARATION OF THIS DOCUMENT WAS PERFORMED CONSISTENT WITH CHAPTER 490 FLORIDA STATUTES AS WELL AS WITH ALL RULES AND REGULATIONS PROMULGATED PURSUANT THERETO.



Merry S. Haber, Ph.D.
Licensed Psychologist
Fla. License #2258

Eugene Steppe

This made about November 2008

A

June 14, 1994
Re: Eugene Steppe
Page 3

The Minnesota Multiphasic Personality Inventory is valid and demonstrates an individual with severe paranoia, social withdrawal and isolation. He demonstrates poor judgement, fragmented thinking and circumstantiality. Moreover, he demonstrates a classical conversion V which is indicative of somatic displacement of his psychological stress. This is confirmed with his difficulty of swallowing and headaches. The profile is indeed significant and consistent with a prepsychotic paranoid schizophrenic state. His emotional volatility and inability to modulate his affect indeed is of great concern and therefore it is my clinical opinion that Mr. Steppe should receive immediate inpatient psychiatric hospitalization. The combination of a history of head trauma and perhaps the synergistic effect of multiple closed head injuries which reduces his judgement and emotional control coupled with the current profile of emotional hostility, paranoia, extreme anger and physical and emotional volatility is indeed a significant combination and is deservant of immediate psychiatric attention.

It is my clinical recommendation based on the clinical interview, review of medical records and current clinical neuropsychological examination that Mr. Eugene Steppe is not competent to stand trial due to his prepsychotic state and emotional instability. Although he has refused inpatient psychiatric evaluation and hospitalization at the VA Hospital, it is my clinical opinion that this would be of great benefit to help stabilize Mr. Steppe before a far more serious danger will be presented to either himself or to others.

Again, thank you for asking me to participate in the evaluation of this most interesting individual. If I can be of any additional assistance to you, please feel free to contact me.

Sincerely,

Hyman H. Eisenstein, Ph.D.

Hyman H. Eisenstein, Ph.D., ABPN
Diplomate, American Board of
Professional Neuropsychology

HHE/pk

This made about 1995

A

RE: STEPPE, Eugene
July 11, 1994
Page Three

Mr. Steppe presents an inflated sense of self-importance. He is resentful and uses a socially intimidating manner. Deeply felt resentment is projected outward, easily precipitating squabbles and antagonisms. In his opinion, others are belligerent and antagonistic, and thus he is justified in his defensive aggressiveness.

He is characteristically touchy and jealous, inclined to brood and harbor grudges and likely to ascribe malicious tendencies to others. Easily provoked, he may express sudden, unanticipated brutality. Moreover, he may distort and magnify the incidental remarks of others into major insults and purposeful slanders. Much of his expansive and arrogant demeanor may be a posture and fantasy of importance and potency rather than a reality.

By history and examination, Mr. Steppe manifests an Organic Personality Syndrome. It is unclear whether he also has a complex partial seizure disorder. His treatment through the VA needs to be continued.

FORENSIC IMPLICATIONS

Based upon my assessment of Mr. Steppe, it is my opinion that he understands the charges against him and but is not presently capable of rationally assisting his attorney in preparing his defense. He is not competent to proceed.

Based upon my understanding of the incident that led to his arrest (as expressed in arrest records), it is my opinion that Mr. Steppe would likely meet the test for criminal responsibility and would be considered sane at the time of the alleged offense(s). I would be happy to review additional information, if necessary.

Mr. Steppe needs to continue with his treatment at the VA Hospital. It is likely that when he has been appropriately stabilized on medication, he will be competent to proceed.



Barry M. Crown, Ph.D.
Diplomate, American Board of
Professional Neuropsychology

Certified Addictions Specialist

DATE AT TOP

A

CONTROL ON BACK WHEN NECESSARY

Department of Veterans Affairs

MEDICAL CERTIFICATE

1. DATE 8-21-93	2. TIME 10 ³⁵ AM	3. AGE 50	4. SEX <input checked="" type="checkbox"/> M <input type="checkbox"/> F	5. ON ARRIVAL PATIENT WAS: <input checked="" type="checkbox"/> AMBULATORY <input type="checkbox"/> STRETCHER <input type="checkbox"/> WHEELCHAIR			6. PHONE NUMBER ()	7. HOMELESS <input type="checkbox"/> YES <input type="checkbox"/> NO
8A. ALLERGIES NKA			8B. WEIGHT 150 lbs	8C. TEMPERATURE 98.2	8D. PULSE 62	8E. RESPIRATION 20	8F. B/P 128/77	8G. DUE TO INJURY <input type="checkbox"/> NO <input type="checkbox"/> YES

9. CURRENT MEDICATIONS NKA

Heart disease - HTN - Diabetic - Angina -
10. TRIAGE S - "The last week I was assaulted"

D-Male Pt. alert, oriented and oriented x3. Arrived walking with complaint of headache, dizziness observed black blue eyes after the hitting. (finger) list of circumstances. A-Alteration in comfort of articulation
SIGNATURE: [Signature]

12. HISTORY AND PHYSICAL

50404M no fractured skull (R side)
1983 - 2° assault. OSIs - Pt was assaulted on 8/18/93 - or 8/17/93 - Pt taken to a hospital doesn't recall which one or who took him - Pt does not have any memory of this episode - Hypnotized at 10pm, since then Pt notes memory loss - especially conceptual thought processes - knows address, tele #, ride memory processes, → @gait unsteadiness @ sensory deficits.

- fl. State lobbyist /
- lobbyist driver
- education - 3 yrs college
- postgrad work - psychology

13. DIAGNOSTIC IMPRESSIONS OSIP Assault

14. PLAN
① Basic labs
② CT scan brain - no bleed / subdural
- Negative - ready
Pt left before ready
Neuro - ax dx 3, know med
Kist 4; motor/s - all x RCE
sensory intact
Reflexes 1/2, serial 7s - 8
+ 1 hr med ready 4/5

15A. ATTENDING OF RECORD [Signature]
15B. EXAMINER'S SIGNATURE [Signature]

SECTION II - FOR PATIENT

1. DISPOSITION / CLINIC APPOINTMENT	2. AFTER CARE SHEET GIVEN <input type="checkbox"/> YES <input type="checkbox"/> NO	3. FOLLOWUP - ACTIVITY - LIMITATIONS
4. CONDITION <input type="checkbox"/> IMPROVED <input type="checkbox"/> SATISFACTORY <input type="checkbox"/> UNCHANGED	5. DATE / TIME OF DISCHARGE	6. SIGNATURE TO INDICATE INSTRUCTIONS GIVEN

7. PATIENT INSTRUCTIONS
12:10 p.m. 12:00 p.m.
[Signature]
I CERTIFY THAT I RECEIVED AND UNDERSTAND THESE INSTRUCTIONS
B. PATIENT'S SIGNATURE [Signature]

Steppe, Eugene
267-62-4009

City of Miami



PEDRO G. HERNANDEZ, P.E.
City Manager

July 7th, 2008

Eugene J. Steppe
3270 Gifford LN
Miami, FL 33133

**Re: City of Miami Code Violation
Folio# 0141210290070**

THIS IS FOR FOUR
THE OTHERS FOR SIX
?

Dear Ms. Steppe:

I am in receipt of your letter dated June 27th, 2008. I have reviewed case number 2008012300 where you have been notified that you are in violation of the following violations.

- 1572- Illegal operating a business in a residential zone
- 1510- No Certificate of Use
- 1551 Failure to have a valid Occupational License
- 1503- Illegally parking commercial vehicle

The notice is proper and we will continue with our Code Enforcement process in order to gain compliance.

You will receive a summon advising you of the date and time for you to appear before the Code Enforcement Board where you will have an opportunity to present your case. However if found guilty, the Board may provide some time to come into compliance, and if compliance is not achieved by set date, a fine of up \$250.00 may be imposed on your property.

Thank you for your cooperation

Sergio Guadix
Chief of Code Enforcement

Cc : Kymberly Smith
Mauricio Lezama
Mariano Loret De Mola
Julie O. Bru

B
C

City of Miami



PEDRO G. HERNANDEZ, P.E.
City Manager

October 02, 2008

Eugene J. Steppe
3270 Gifford Lane
Miami, FL 33133

Re: City of Miami Code Violation
Folio# 0141210290070

Dear Ms. Steppe:

I am in receipt of your letter dated October 02, 2008. I have discussed with Mr. Eduardo Montes his inspection of your property on September 30, 2008 and City of Miami Police Officer, Mr. Jose Guell who accompanied Mr. Montes on the inspection of your property.

Mr. Montes has advised me that all of the violation have been cleared. However, the commercial van parked outside of Miami City Hall on Pan American Drive still have wooden racks attached to each side. If you decide to move the van and park the van on or around your property you will be in violation as of date June 27, 2008. The racks much be removed before parking the van in a residential area or a fine of up to \$250.00 may be imposed on your property.

Thank you for your cooperation

Sergio Guadix
Chief of Code Enforcement

B

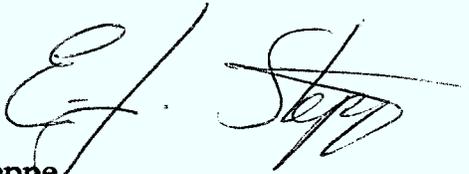
August 24, 2009

City of Miami Department of Code Enforcement
444 SW 2 Avenue - 7th Floor
Miami, Florida 33130

TO WHOM IT MAY CONCERN:

I can no longer keep my coconut palms clear of coconuts due to my age and a heart condition that at times makes me dizzy, making it dangerous for me to climb so high--I'm 66. The trees, rather, the height of the coconut clusters are in excess of about 34 feet. I have 9 trees that contain several hundred nuts that fall off daily and represent a danger "a life safety issue", under Sec. 8.1.11. Exemptions (c), to my wife, myself, my tenants, our various friends and neighbors, and my 5 children who frequently visit with our four grandchildren. Under this exemption I will be felling these palms immediately before someone is killed or seriously injured by these coconuts.

I've already begun planting additional palm trees since I have well over 25 nuts sprouting as I write this letter.

A handwritten signature in black ink, appearing to read 'E. Steppe', written over a horizontal line.

Eugene Steppe
3270 Gifford Lane
Miami, FL 33133
305-447-6526

See this story? CITY manager Johnny Martinez was worried about scratching his BMW. Several days after this story appear August 08, 2011, CITY removed the palm, nuts and fronds **WITHOUT A PERMIT!**

I applied for a permit from code enforcement to remove 9 palms that were dropping nuts and fronds and received an exemption from the CITY Tree Canopy Ordinance. Coconut kill about 150 folks annually and I wanted to fell them to protect my wife and I and five adult children and four grand children who visit frequently and our tenants who use the back yard, almost daily, and their guest and our combined eight pets and got a fine and lien that accrues \$250.00, daily that now exceeds about \$75,000.00.

Manager strives to keep it simple

■ On the job less than two months, City Manager Johnny Martinez is making his way in the prickly world of Miami politics.

BY PATRICIA MAZZEI
pmazzei@MiamiHerald.com

As the city's new manager, Johnny Martinez is stepping gingerly in the minefield that is Miami politics.

Since taking the reins of the cash-strapped city this summer, Martinez has followed a step-by-step approach to the job: Listen. Be a straight shooter.



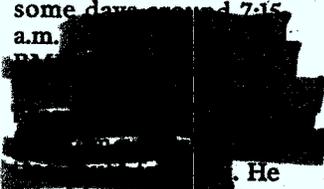
MARTINEZ

Crack jokes. And on a recent work day, make a heaping pot of black

beans and rice to share with office-mates.

"I try to keep it simple," Martinez, an accomplished home cook with an extensive herb garden, said in an interview. "Get to your office, do your work, tell the truth and go home."

Martinez, 59, who lives in Kendall with his wife and two adult children from a previous marriage, gets to the office some days around 7:15 a.m.



He lets himself into City Hall, taking the elevator to the second floor be-

See the first paragraph of this Miami Herald story. Due to short term memory deficit I have no idea who did what to whom. When I get to the second sentence, the people in the first sentence may or may not disappear. When I get to the 3'd sentence, the people in the first sentence may, or may not re-appear, likewise for the 3'd sentence, 4th, fifth, and so on. I've never read a book or watched a movie with multiple characters since the injury in 1963. I go with John Wayne Stage Coach and Clint Eastwood Good, Bad & Ugly; white hat, black hat, shoot the guy in the black hat sort of script because I can follow it..

It's taken me three years, almost daily to keep up with the characters and bit players in this latest saga with CITY related to this Complaint.

I was in desperate fear of losing our home. The V.A., namely my primary care doctor, literally saved my life and I'm feeling much better, but, I do miss being out front talking.

Prior to this incident I never became very emotional, what would have been the point, the police would have put me 6 feet under. Every time code enforcement personnel trespassed on my property resulting in a confrontation, they always called for back up. I'm very miffed at some of the individuals who have done this to me. Especially, Assistant City Attorney Barnaby Min. He's a liar. FOX News, Patrick Fraser filmed the hearing; as Min lied each time he was smiling, smirking smugly. The film is available upon subpoena. Min, an officer of the courts was hiding behind the color of law and is directly responsible for the CITY taking of our home - - - unacceptable!

Defense: Detective forged document in murder case

■ A police detective, Ed Hill, is accused of forging a key document in a murder case after already getting in trouble for sleeping with the suspect's ex-wife.

BY DAVID OVALLE
dovalle@miamiherald.com

The cop's credibility already was stretched pretty thin when he began romancing the wife of a suspect accused in the killing of a salesman involved in a straight-out-of-Hollywood love triangle.

Now, the entire murder case is hanging by a thread after a defense attorney said in court Thursday that the same cop, North Miami Beach Detective Ed Hill, forged key evidence.

The judge in the murder case against defendant David Superville was

incensed.

"What I've read here is appalling," Miami-Dade Circuit Judge Jorge Cueto told prosecutors after reviewing court documents detailing the allegations against Hill.

Superville is accused of helping set up the murder of James Duarte, a cell-phone salesman who was shot and killed in August 2001 as he left his North Miami Beach office.

Investigators say the slaying was done at the behest of a jealous lover.

• TURN TO MURDER, 2B



TIM CHAPMAN/MIAMI HERALD STAFF

CHARGED WITH SETTING UP A MURDER: David Superville, left, with Andrew Rier, one of his attorneys.



TOGETHER: Superville's ex-wife Anna Gulevitskaya and Detective Ed Hill.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 09-23305-CIV-LENARD/TURNOFF

EUGENE JOBIE STEPPE and
CRISTINA MARIA STEPPE,
Plaintiffs,

vs.

CITY OF MIAMI, a Florida Municipal Corp.; and
CITY OF MIAMI CODE ENFORCEMENT
BOARD,

Defendants.

**DEFENDANT'S MOTION TO DISMISS
AND INCORPORATED MEMORANDUM OF LAW**

The Defendant, CITY OF MIAMI, by and through undersigned counsel, files its Motion to Dismiss, and states the following in support thereof:

BACKGROUND

Based on the allegations of the Second Amended Complaint, the subject action arises out of several violations of the Miami City Code.

In Miami Code Enforcement Case No. CE2008012300, the Plaintiffs were charged with violations of the Miami City Code, including, but not limited to operating a business in a residential zone. These violations were scheduled for evidentiary hearing before the Miami Code Enforcement Board. The Plaintiffs received a lengthy hearing on the violations, at which Plaintiff Eugene Steppe and

the Miami Code Inspector testified. After the hearing, the Miami Code Enforcement Board determined that the Plaintiffs were in violation of the Code. See Attachment 6 to Plaintiffs' Complaint, Consolidated Case No. 10-CV-24571-JLK.

Pursuant to Florida law, the Plaintiffs appealed the Miami Code Enforcement Board's decision to the Miami-Dade County Circuit Court's Appellate Division. See *Steppe v. City of Miami Code Enforcement*, Case No. 08-481 AP. On November 10, 2010, the Appellate Division affirmed the decision of the Miami Code Enforcement Board. See Mandate and Decision of Circuit Court Appellate Division, attached.

In Miami Code Enforcement case No. CE2009020198, the Plaintiffs were charged with tree removal/relocating/trimming/root pruning without a finalized permit. The Plaintiffs were directed to obtain an after the fact permit for the tree that was removed. On February 10, 2010, the Miami Code Enforcement Board held a hearing and found the Plaintiffs guilty of the violation. The Miami Code Enforcement Board entered a Final Administrative Enforcement Notice confirming the violation. See Attachment 2 to Plaintiffs' Complaint, Consolidated Case No. 10-CV-24571-JLK. The Plaintiffs did not appeal from this decision.

In Miami Building Department Case No. BE2009024201, on October 19, 2009, a City of Miami electrical inspector notified the Plaintiffs of violations on their property discovered from a visual inspection of their electrical wiring. The Plaintiffs were required to take steps to secure a licensed electrical contractor to correct the violations by November 30, 2009. The notice indicated that compliance

was required to remedy a hazardous condition to life and property. See Attachment 1 to Plaintiffs' Complaint, Consolidated Case No. 10-CV-24571-JLK.

Previously in their Amended Complaint, the Plaintiffs alleged (1) invasion of privacy; (2) trespass; (3) negligence; (4) denial of due process; (5) fraudulent misrepresentation; and (6) estoppel. In ruling on the Defendant's motion to dismiss, this Court found that the Plaintiffs failed to allege facts supporting any claims for *inter alia* negligence or fraudulent misrepresentation as "There are no allegations that anyone promised anything to Plaintiffs or made any misrepresentation. Nor is it clear what duty was owed to Plaintiffs or how Defendants breached such duty." [D.E. 58]

The Plaintiffs filed a Second Amended Complaint alleging the following claims related to the above Code violations: (1) breach of social contract; (2) trespass; (3) invasion of privacy; (4) violation of due process; (5) negligent and fraudulent misrepresentation; (6) negligent and intentional infliction of emotional distress; and (7) a petition for writ of certiorari.

MEMORANDUM OF LAW

I.

THE PLAINTIFFS HAVE FAILED TO STATE A PLAUSIBLE CLAIM

Rule 8 of the Federal Rules of Civil Procedure requires that a complaint contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed.R.Civ.P. 8(a)(2); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 557, 127 S.Ct. 1955, 1966, 167 L.Ed.2d 929 (2007). The purpose of this requirement "is to give the defendant fair notice of what the claim is and the grounds upon which it rests." *Davis*

v. Coca-Cola Bottling Co. Consol., 516 F.3d 955, 974 (11th Cir.2008) (internal quotation marks omitted). “Factual allegations must be enough to raise a right to relief above the speculative level” and must be sufficient “to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 555, 570, 127 S.Ct. at 1965, 1974. The rule in *Twombly* applies to all civil actions. *Ashcroft v. Iqbal*, 556 U.S. ----, 129 S.Ct. 1937, 1953, 173 L.Ed.2d 868 (2009). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* at ----, 129 S.Ct. at 1949.

“Although the pleadings submitted by a *pro se* plaintiff are held to a less stringent standard than those of attorneys, this leniency does not give a court a license to serve as a *de facto* counsel for a *pro se* litigant or to rewrite deficient pleadings in order to sustain the litigant's action.” *Perlman v. U.S.*, 2002 WL 575788 (S.D. Fla. Mar. 5, 2002); *see also Gibbs v. Republic Tobacco L.P.*, 119 F.Supp.2d 1288, 1290 (M.D.Fla.2001) (stating that court would not redraft *pro se* litigant's pleadings).

Based on the foregoing legal standard, the Plaintiffs have failed to state a plausible claim. The allegations of the Complaint are unreasonable and simply do not allow the Court to draw a reasonable inference that the CITY OF MIAMI is liable for the misconduct alleged. The standard of *Twombly* and *Iqbal* has not been met. Hence, the Complaint must be dismissed.

II.
BREACH OF SOCIAL CONTRACT

Count I of the Second Amended Complaint alleges a breach of social contract. There is no cause of action in Florida for breach of social contract. Moreover, there was no contract between the Plaintiffs and the CITY OF MIAMI and no contract is attached to the Second Amended Complaint. Accordingly, Count I of the Second Amended Complaint must be dismissed.

III.
NEGLIGENT AND FRAUDULENT MISREPRESENTATION

Count V of the Second Amended Complaint alleges negligent and fraudulent misrepresentation.

Regarding these claims, this Court has already determined that “There are no allegations that anyone promised anything to Plaintiffs or made any misrepresentation. Nor is it clear what duty was owed to Plaintiffs or how Defendants breached such duty.” [D.E. 58]

Furthermore, Section 768.28(9)(a), Florida Statutes, provides that “The state or its subdivisions shall not be liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of his employment or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.”

Claims against the state or its subdivisions for fraudulent misrepresentation are barred under Section 768.28(9)(a). *See Parker v. State of Florida Board of Regents*, 724 So.2d 163 (Fla. Dist. Ct. App. 1998). Moreover, Count V is replete with allegations of intentional misconduct.

Based on the foregoing, Count V of the Second Amended Complaint must be dismissed.

IV.
NEGLIGENT AND INTENTIONAL
INFLICTION OF EMOTIONAL DISTRESS

Count VI of the Second Amended Complaint alleges negligent and intentional infliction of emotional distress.

Regarding negligent infliction of emotional distress, the Plaintiff has not alleged a impact such that the claim would be barred by the Florida “impact rule.” *See, e.g., Willis v. Gami Golden Clades, LLC*, 967 So.2d 846 (Fla. 2007).

Regarding intentional infliction of emotional distress, as stated above, Section 768.28(9)(a), Florida Statutes, provides that “The state or its subdivisions shall not be liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of his employment or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.”

Sovereign immunity bars a claim for intentional infliction of emotional distress. *See Williams v. City of Minneola*, 619 So.2d 983 (Fla. 5th DCA 1993).

Based on the foregoing, Count VI of the Second Amended Complaint must be dismissed.

V.
FALSE LIGHT INVASION OF PRIVACY

Count II of the Second Amended Complaint alleges in part a claim based upon false light invasion of privacy. The Florida Supreme Court has rejected a

claim for false light invasion of privacy in Florida. *See Jews for Jesus, Inc. v. Rapp*, 997 So.2d 1098 (Fla. 2008).

Based on the foregoing, Plaintiffs' claim of false light invasion of privacy in Count II of the Second Amended Complaint must be dismissed.

VI.
PETITION FOR WRIT OF CERTIORARI

The Plaintiffs have also included in their Second Amended Complaint a Petition for Writ of Certiorari.

Under Florida law, "the doctrine of estoppel by judgment applies to administrative findings which are of a quasi judicial nature, particularly when judicial review of the findings has been exhausted." *Carol City Utilities, Inc. v. Miami Gardens Shopping Plaza, Inc.*, 165 So.2d 199, 200 (Fla. 3d DCA 1964). Further, "Where an administrative agency is acting in a judicial capacity and resolves disputed issues of fact properly before it, as to which the parties have had an adequate opportunity to litigate, the court will apply res judicata or collateral estoppel." *United States Fidelity and Guaranty Co. v. Odoms*, 444 So.2d 78, 80 (Fla. 5th DCA 1984).

This has already been litigated and appealed before the State Court and is therefore barred by the doctrine of estoppel. Accordingly, the Plaintiffs' Petition for Writ of Certiorari must be dismissed.

WHEREFORE, based on the foregoing, the CITY OF MIAMI respectfully request that this Court grant its motion to dismiss.

JULIE O. BRU, City Attorney
VICTORIA MENDEZ, Asst. City Atty.
JOHN A. GRECO, Asst. City Atty.
444 S.W. 2nd Avenue, Suite 945
Miami, FL 33130-1910
Tel.: (305) 416-1800
Fax: (305) 416-1801
jagreco@miamigov.com

By: s/ John A. Greco
John A. Greco
Florida Bar No. 991236

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 11, 2011, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached service list in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing. A true and correct copy of the foregoing has been furnished by U.S. Mail to Eugene and Cristina Steppe, 3270 Gifford Lane, Miami, Florida 33133.

By: s/ *John A. Greco*
John A. Greco
Florida Bar No. 991236

Doc.#290001

SERVICE LIST

Eugene Jobie Steppe and Cristina Maris Steppe v. City of Miami
Case no. 09-23305-CIV-LENARD
United States District Court, Southern District of Florida

Eugene J. Steppe and Cristina Maria Steppe
3270 Gifford Lane
Miami, Florida 33133
Via U.S. regular mail

Julie O. Bru, City Attorney
Victoria Mendez, Assistant City Attorney
John A. Greco, Assistant City Attorney
Counsel for Defendant
City of Miami City Attorney's Office
444 S. W. 2nd Avenue, Suite 945
Miami, Florida 33130
(305) 416-1800 Telephone
(305) 416-1801 Fax
VMendez@miamigov.com
Via notice of electronic filing

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 09-23305-CV-WILLIAMS-TURNOFF

EUGENE JOBIE STEPPE and
CRISTINA MARIA STEPPE,

Plaintiffs,

vs.

CITY OF MIAMI, FLORIDA.,

Defendant.

_____ /

ORDER

THIS MATTER is before the Court on Defendant City of Miami, Florida's Motion to Dismiss Plaintiff's Second Amended Complaint (DE 64). For the following reasons, the Court grants Defendant's motion in part, dismissing most of Plaintiffs' claims with prejudice, but will allow aspects of Plaintiff's due process, trespassing, and invasion of privacy claims to proceed.

I. BACKGROUND

This action presents a long-standing zoning dispute between *pro se* Plaintiffs Eugene and Cristina Steppe and the City of Miami. Eugene Steppe suffers from various mental illnesses, including delusion disorder, stemming from traumatic brain injury suffered in 1963 as a result of his military service. (Compl. ¶¶ 11-12.) He began creating art both as a form of protest and as therapy for his condition. Apparently, some of this art was created and displayed publicly in his front yard. (Compl. ¶ 40.) Whether Mr. Steppe sold his art from his home or through a home-based internet business is an

issue that has spawned extensive litigation between him and the City. In June 2008, the City's Zoning Enforcement Department visited his property and issued eight code violations. (Compl. ¶ 16.) In addition to operating their art business, Plaintiffs might have run afoul of the city code by felling a coconut-bearing palm tree without a permit, and having exposed electrical wiring on their premises. (Compl. ¶¶ 24-28, 35-36, 53.)¹ Plaintiffs were ultimately found guilty of the violations and a \$340,000 lien was placed on their home. (Compl. ¶ 94.)

Plaintiffs vigorously contest the manner in which they were found to have violated the City's zoning ordinances. They allege that the City lacked a search warrant or permission to conduct an inspection of their property (including entering their home), which became the basis of the charges. (Compl. ¶ 15.) Furthermore, Plaintiffs assert that at the hearing held by the Miami Code Enforcement Board, witnesses were asked leading questions by the City's attorneys, Board members made comments Plaintiffs found objectionable, and Plaintiffs were ultimately "kicked [] out" of the proceedings. (Compl. ¶¶ 19-21, 41-42.) Plaintiffs also contend that they did not receive notice of at least one of the charges prior to the hearing. (Compl. ¶ 89.) And in determining that

¹ Although superseded by the complaint before the Court, the First Amended Complaint (DE 25) clarifies that three enforcement proceedings against the Steppes were commenced in 2008 and 2009. The first charged Plaintiffs with operating a business in a residential zone, not possessing a certificate of use required for operating a business, not having a valid occupational license, illegally parking a commercial vehicle in a residential zone, parking on unimproved surfaces, and storage of miscellaneous materials, equipment, or debris. In the second, an inspector's observance of a felled palm tree led to charges of failing to obtain a permit as it relates to tree removal, relocating, trimming, or root pruning. In the third, a violation was issued after an inspector inspected the property's electrical wiring and attempted to remove two electrical meters.

the Steppes were guilty and in imposing a “bogus fraudulent lien” on their home, the Board allegedly “departed from the essential requirements of law in its determination that an illegal business was being operated out of” Plaintiffs’ property. (Compl. ¶¶ 45-46.) Plaintiffs filed this action on October 30, 2009 seeking money damages and to overturn the Zoning Board’s decision.

The Court stayed the Steppes’ case for just over a year (see DE 19, DE 22) until after their appeal of the Board’s determination was affirmed by the Miami-Dade County Circuit Court’s Appellate Division. This action was then consolidated with another civil case filed by Plaintiffs that asserted nearly identical claims and had been removed to federal Court. (See DE 23.) Plaintiffs filed an amended complaint (DE 25), a motion for summary judgment (DE 26), and a petition for writ of certiorari (DE 27) to challenge the Enforcement Board’s determination in early February 2011. Those motions were denied when the amended complaint was dismissed by order dated September 13, 2011.

In dismissing Plaintiffs’ amended complaint, the Court found that Plaintiffs’ allegations were “rambling, confusing, and incoherent at times” and lacked supporting facts to plausibly state the various causes of action asserted. (DE 58, at 6.)² Plaintiffs were allowed “one final time” to amend their complaint and the Court provided them the elements of the causes of action that could be plausibly asserted based on the facts of the case – invasion of privacy, trespass, and/or a violation of due process. See *Bryant v. Dupree*, 252 F.3d 1161, 1163 (11th Cir. 2001) (stating that a court can preclude

² The order on the motion to dismiss was issued before the action was transferred to the undersigned from the Honorable Joan A. Lenard on September 14, 2011 (DE 59).

amendment for a “repeated failure to cure deficiencies by amendments previously allowed”). This complaint – the third in this case – was filed on September 26, 2011. Plaintiffs now bring six counts: (1) breach of social contract; (2) invasion of privacy; (3) trespass; (4) denial of due process; (5) negligent and fraudulent misrepresentation; and (6) negligent and intentional infliction of emotional distress.

II. DISCUSSION

To survive a Rule 12(b)(6) motion to dismiss, a complaint must plead sufficient facts to state a claim that is “plausible on its face.” *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). The Court’s consideration is limited to the allegations presented. See *GSW, Inc. v. Long County*, 999 F.2d 1508, 1510 (11th Cir. 1993). All factual allegations are accepted as true and all reasonable inferences are drawn in the plaintiff’s favor. See *Speaker v. U.S. Dep’t of Health and Human Services Ctrs. For Disease Control and Prevention*, 623 F.3d 1371, 1379 (11th Cir. 2010); see also *Roberts v. Fla. Power & Light Co.*, 146 F.3d 1305, 1307 (11th Cir. 1998). While a plaintiff need not provide “detailed factual allegations,” the allegations must consist of “more than labels and conclusions.” *Twombly*, 550 U.S. at 555 (internal citations and quotations omitted). “[A] formulaic recitation of the elements of a cause of action will not do.” *Id.* Rule 12(b)(6) does not allow dismissal because the court anticipates “actual proof of those facts is impossible;” however, the “[f]actual allegations must be enough to raise a right of relief above the speculative level.” *Watts v. Fla. Int’l Univ.*, 495 F.3d 1289 (11th Cir. 2007) (quoting *Twombly*, 550 U.S. at 545). Since Plaintiffs are proceeding *pro se*, their pleadings must

be construed more liberally than pleadings drafted by attorneys. See *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998).

A. Due Process

The Court first addresses whether Plaintiffs can proceed under 42 U.S.C. § 1983 on the ground that the City's actions violated their due process rights under the Fourteenth Amendment of the Constitution. In Count IV, Plaintiffs allege that Board hearing continued despite Mr. Steppe's assertion that he was incompetent to proceed, that he and his wife were ignored when they tried to engage the Board and were ultimately dismissed from the proceedings, and that they were not given proper notice of at least one of the ordinance violations. (Compl. ¶¶ 79-89.) Defendant offers no objections in response to Plaintiff's claim.

It is beyond peradventure that individuals are entitled to procedural certain rights in state administrative hearings such as the one at issue here. The Fourteenth Amendment provides that no state "shall . . . deprive any person of life, liberty or property without due process of law." U.S. CONST. amend. XIV, § 1. "[T]he Due Process clause provides that certain substantive rights – life, liberty, and property – cannot be deprived except pursuant to constitutionally adequate procedures . . . The essential requirements of due process are . . . notice and an opportunity to respond." *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 541, 546 (1985); *Parratt v. Taylor*, 451 U.S. 527, 540 (1981) ("[S]ome kind of hearing is required at some time before a State finally deprives a person of his property interests. The fundamental requirement of due process is the opportunity to be heard and it is an 'opportunity which must be granted at a meaningful time and in a meaningful manner.'").

While not all of Plaintiffs' claims support a procedural due process violation, at some level they have pleaded that they had a constitutionally protected property interest, that they were deprived of that property interest when the City imposed a lien on their home, and that the City did not use a constitutionally sufficient procedure insofar as they did not receive prior notice of certain charges and the Board did not afford them a sufficient opportunity to be heard. Thus, they have advanced sufficient allegations of a procedural due process claim. See *Grayden v. Rhodes*, 345 F.3d 1225, 1232 (11th Cir. 2003) (“[A] § 1983 claim alleging a denial of procedural due process requires proof of three elements: (1) a deprivation of a constitutionally-protected liberty or property interest; (2) state action; and (3) constitutionally-inadequate process.”).

That notwithstanding, the City may very well demonstrate that the state procedures available to Plaintiffs – which they apparently availed themselves of in their appeal in state court – were constitutionally adequate. See, e.g., *Ditaranto v. City of Debary, Fla.*, No. 6:10-cv-403, 2010 WL 1924448, at *2 (M.D. Fla. May 12, 2010) (dismissing procedural due process claim because plaintiffs had the ability to appeal ruling on zoning ordinance violations in state circuit court); *Henry Co. Homes, Inc. v. Curb*, 548 F. Supp. 2d 1281, 1294 (N.D. Fla. 2008) (granting summary judgment in favor of defendant where “[p]laintiff took advantage of the procedural avenues of relief that were available in the state system . . .”). Similarly, to the extent that any of the underlying factual contentions have been addressed in the state action, the Court will not relitigate them here on the basis of collateral estoppel. See, e.g., *Sullivan v. City of New Port Richey*, No. 85-459, 1988 WL 156289, at *10 (M.D. Fla. Sept. 13, 1998) (holding that the determination by a state court that notice was statutorily sufficient

precluded plaintiffs from arguing that they had not been given notice and an opportunity to be heard).

B. State Law Claims

In addition to Plaintiffs' constitutional claims, they seek to recover against the city for various causes of action arising under state law, most of which contain deficiencies that render them subject to dismissal. For example, there is no recognized state cause of action for "breach of social contract." To the extent it is to be construed as a breach of contract claim, the factual allegations as pleaded and taken as true, fail to give rise to an entitlement to relief under *Twombly* and *Iqbal*. Count I will therefore be dismissed with prejudice, since amendment would be futile.

Plaintiffs' fraudulent misrepresentation claim (Count V) appears to relate to inspection reports and statements made by the City's attorneys to the Board giving Plaintiffs' incorrect address, as well as the "instruct[ion] by the City's attorneys to the Board that Plaintiffs operated an illegal business there." (Compl. ¶¶ 91-95.) But Plaintiffs themselves were not induced to act on any misrepresentation and the Board, which under their theory did act on the misrepresentation, was not injured by it. See *Butler v. Yusem*, 44 So. 3d 102, 105 (Fla. 2010) (explaining that the third and fourth elements of a fraudulent misrepresentation claim are that another act on the representation and "consequent injury by the party acting in reliance on [it].").

Moreover, the city, as a political subdivision of the state, is entitled to sovereign immunity on Plaintiffs' intentional infliction of emotional distress claim (Count VI). See *Magielsi v. Sheriff of St. Lucie Cnty*, No. 2:11-cv-14235, 2011 WL 5102238, *2 (S.D. Fla. Oct. 26, 2011) (holding that such claims against the state or its subdivisions are barred

by Fla. Stat. § 768.28(9)(a)). Plaintiffs' negligent infliction of emotional distress claim fails to allege that the emotional distress flowed from a physical injury and they have not pleaded or argued that it is subject to any exception to the rule. See *Southern Baptist Hosp. of Fla. V. Welker*, 908 So. 2d 317 (Fla. 2005) (holding that by requiring that "the emotional distress suffered [] flow from physical injuries the plaintiff sustained in an impact," the rule serves to safeguard the court from fictitious and speculative claims arising from purely emotional distress); *Fernander v. Bonis*, 947 So. 2d 584, 590 (Fla. Dist. Ct. App. 2007).³

Most of Plaintiff's invasion of privacy claims (Count II) fail. He cannot maintain an action based on the appropriation of his name or likeness, since while certain allegations under the heading of this count allege that the City sought to have Mr. Steppe's website transferred to it, there is no indication that the Defendant did so or used Mr. Steppe's name or likeness to promote a commercial product or service. See *Fuentes v. Mega Media Holdings, Inc.*, 721 F. Supp. 2d 1255, 1257-58 (S.D. Fla. 2010). The Florida Supreme Court recently held that it no longer recognizes false light as a viable cause of action, which bars that claim. See *Jews for Jesus, Inc. v. Rapp*, 997 So. 2d 1098, 1114 (Fla. 2008). And the notices of violation placed in front of his property appear to be a matter of public concern, which vitiates his disclosure-of-private-facts privacy claim. See *Cape Pubs. v. Hitchner*, 549 So.2d 1374, 1377 (Fla. 1989).

³ Nor is the conduct alleged with respect to this particular count – the unadorned allegation of a vendetta by the City and attorney and inspectors "advis[ing] [Mr. Steppe] to learn Spanish or infer that [he is] a Cuban agent and that [he has] made enemies at Miami CITY Hall" – so outrageous in character, and so extreme in degree . . . atrocious [] and utterly intolerable in a civilized society." See *Liberty Mut. Ins. Co. v. Steadman*, 968 So. 2d 592, 595 (Fla. Dist. Ct. App. 2007) (holding that the question of whether conduct is "outrageous" is a question of law, not a question of fact" and can be determined in ruling on a motion to dismiss).

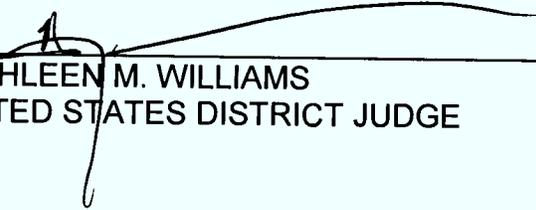
That said, the Court previously indicated that Mr. Steppe could proceed on an intrusion theory of invasion of privacy. (DE 58, at 7.) He claims that the City trespassed onto his property without a warrant on three occasions, including “taking pictures, open[ing] the front door and stepp[ing] inside of [his] home.” (Compl. ¶ 68.) The sufficiency of this claim has not been opposed by the City. (See Mot. at 6-7.) Moreover, similar facts can give rise to a trespass (Count III), which Plaintiff has brought a claim for and which has not been opposed by Defendant in its motion. See *Pearson v. Ford Motor Co.*, 694 So. 2d 61 (Fla. Dist. Ct. App. 1997) (“Trespass is an unauthorized entry onto another’s property.”). The Court will allow these two state claims to proceed, but may decline to exercise supplemental jurisdiction over them should Defendant prevail on the due process claim.

III. CONCLUSION

The Court finds that while the complaint may be inartfully pleaded, when the underlying allegations are liberally construed and held to the less stringent standards afforded to *pro se* litigants, Plaintiffs have stated a claim for a violation of their procedural due process rights (Count IV), an intrusion theory of invasion of privacy under state law (Count II), and trespass (Count III). It will dismiss the remainder of Plaintiffs’ claims with prejudice.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that Defendant’s Motion to Dismiss (DE 64) is **GRANTED IN PART**. Counts I, II (with the exception of Plaintiffs’ “Intrusion upon Seclusion” claim), V, and VI are **DISMISSED WITH PREJUDICE**. Defendant’s Motion to Stay Discovery and Initial Disclosures (DE 63) and Plaintiff’s Motion for Summary Judgment (DE 67) are **DENIED AS MOOT**.

DONE AND ORDERED in Chambers at Miami, Florida this 12th day of March,
2012.



KATHLEEN M. WILLIAMS
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 09-23305-CIV-WILLIAMS-TURNOFF

EUGENE JOBIE STEPPE and
CRISTINA MARIA STEPPE,

Plaintiffs,

vs.

CITY OF MIAMI, a Florida municipal
corporation,

Defendant.

_____ /

ANSWER AND AFFIRMATIVE DEFENSES

The Defendant, CITY OF MIAMI, by and through undersigned counsel, answers Plaintiffs' Second Amended Complaint [D.E. 61] and states its affirmative defenses as follows:

ANSWER

1. Denied as worded. Admitted that Plaintiffs bring due process claim under 42 USC § 1983 but deny that Plaintiffs are entitled to relief. Remainder denied.
2. Denied as worded. Admitted that this Court has federal question jurisdiction over due process claim and supplemental jurisdiction over state

law claims for trespass and invasion of privacy as delineated by this Court [D.E. 69]. Remainder denied.

3. Admitted.
4. Denied as worded. Admitted that attorney's fees may be awarded under 42 USC § 1988 but deny that Plaintiffs are entitled to attorney's fees.
5. Denied as worded. Admitted that Plaintiff claims a due process violation. Remainder denied.
6. Denied as worded. Admitted that Plaintiff seeks declaratory relief but Defendant denies the Plaintiff is entitled to such relief. Remainder denied.
7. Denied.
8. Admitted.
9. Denied as worded. Denied that any Plaintiff was "falsely accused and implicated." Remainder denied for lack of knowledge.
10. Admitted.
11. Denied for lack of knowledge.
12. Denied as worded. Admitted that there is a code enforcement lien on the subject property. The Defendant is without knowledge as to Plaintiff's medical condition. Remainder denied.
13. Denied.
14. Denied.
15. Denied as worded. Admitted that the outside of Plaintiff's property was inspected and that the code inspector did not have a warrant. Denied that the code inspector was required to have a warrant. Remainder denied.

16. Denied as worded. Admitted that the Plaintiffs were charged with violations of City Code in the cases referenced in Paragraph 16. Remainder denied.

17. Denied as worded. Admitted that Plaintiffs received notices of violations and summonses to appear. Remainder denied.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

24. Denied. In further response, the defendant states that the transcript of hearing is filed with the Court and speaks for itself [D.E. 34].

25. Denied. In further response, the defendant states that the transcript of hearing is filed with the Court and speaks for itself [D.E. 34].

26. Denied.

27. Denied.

28. Denied as worded. In further response, the defendant states that the transcript of hearing is filed with the Court and speaks for itself [D.E. 34].

29. Denied. In further response, the defendant states that the transcript of hearing is filed with the Court and speaks for itself [D.E. 34].

30. Denied as worded. In further response, the defendant states that the transcript of hearing is filed with the Court and speaks for itself [D.E. 34].

31. Denied. In further response, the defendant states that the transcript of hearing is filed with the Court and speaks for itself [D.E. 34].
32. Denied as worded. In further response, the defendant states that the transcript of hearing is filed with the Court and speaks for itself [D.E. 34].
33. There is no paragraph 33.
34. Denied in part. Admitted that Plaintiff was given 30 days to come into compliance. Remainder denied.
35. Denied as worded. Admitted that Plaintiffs were found to be in violation for tree removal/relocating/trimming root pruning without a permit.
36. Denied as worded. Admitted that Plaintiffs were notified of and instructed to remedy violations on property, but the inspector did not take further steps to prosecute violations.
37. Denied as worded. Admitted that term “exchanging emotions” is not in Miami Ordinances. Remainder denied.
38. There is no paragraph 38.
39. Denied as worded. Admitted that Plaintiffs received notice and summons to appear and did appear at the hearing before the Code Enforcement Board. Remainder denied.
40. Denied.
41. Denied.
42. Denied. In further response, the defendant states that the transcript of hearing is filed with the Court and speaks for itself [D.E. 34].

43. Denied as worded. Admitted that Plaintiffs were given 30 days to correct violations. Remainder denied.

44. Denied.

45. Denied.

46. Denied.

47. Denied.

48. Denied.

49. Denied.

50. Denied.

51. Denied.

52. Denied.

53. Denied. In further response, the Defendant is without knowledge as to assertion that Plaintiff “was raised in a country where the state came when they wanted and did what they wanted[.]”

54. Denied.

55. Denied.

56. Denied.

57. Denied.

58. The Court dismissed Count I of the Second Amended Complaint. [D.E. 69].

Therefore, the Defendant does not respond to paragraph 58.

59. The Court dismissed Count I of the Second Amended Complaint. [D.E. 69].

Therefore, the Defendant does not respond to paragraph 59.

60. The Court dismissed Count I of the Second Amended Complaint. [D.E. 69].

Therefore, the Defendant does not respond to paragraph 60.

61. The Court dismissed Count I of the Second Amended Complaint. [D.E. 69].

Therefore, the Defendant does not respond to paragraph 61.

62. The Court dismissed Count I of the Second Amended Complaint. [D.E. 69].

Therefore, the Defendant does not respond to paragraph 62.

63. The Court dismissed Count I of the Second Amended Complaint. [D.E. 69].

Therefore, the Defendant does not respond to paragraph 63.

64. The Court dismissed Count I of the Second Amended Complaint. [D.E. 69].

Therefore, the Defendant does not respond to paragraph 64.

65. The Court dismissed Count I of the Second Amended Complaint. [D.E. 69].

Therefore, the Defendant does not respond to paragraph 65.

66. The Court dismissed Count I of the Second Amended Complaint. [D.E. 69].

Therefore, the Defendant does not respond to paragraph 66.

67. The Defendant re-alleges and incorporates its responses to paragraphs 1 through 66.

68. Denied.

69. The Court dismissed Plaintiff's claim of "Publicity Given to Private Life" in Count II of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 69.

70. The Court dismissed Plaintiff's claim of "Publicity Placing Person in a False Light" in Count II of the Second Amended Complaint. [D.E. 69].

Therefore, the Defendant does not respond to paragraph 70.

71. The Court dismissed Plaintiff's claim of "Appropriation of Name or Likeness" in Count II of the Second Amended Complaint. [D.E. 69].

Therefore, the Defendant does not respond to paragraph 71.

72. The Defendant re-alleges and incorporates its responses to paragraphs 1 through 71.

73. Denied as worded. Admitted that code inspector inspected the outside of property and took photographs which were admitted into evidence. Remainder denied.

74. Denied as worded. In further response, Defendant admits that it filed motion to dismiss asserting sovereign immunity. In further response, the defendant states that the transcript of hearing is filed with the Court and speaks for itself [D.E. 34]. Remainder denied.

75. Denied.

76. Denied.

77. Denied as worded. Admitted that evidence may be excluded under circumstances not applicable in this case. Remainder denied.

78. The Defendant re-alleges and incorporates its responses to paragraphs 1 through 77.

79. Denied as worded. Admitted that Plaintiffs received notice and summons to appear before Code Enforcement Board on September 10, 2008, relative to code violations. In further response, the defendant states that the transcript of hearing is filed with the Court and speaks for itself [D.E. 34].

80. Denied.

81. Denied as worded. In further response, the defendant states that the transcript of hearing is filed with the Court and speaks for itself [D.E. 34].

82. Denied.

83. Denied.

84. Denied as worded. In further response, the defendant states that the transcript of hearing is filed with the Court and speaks for itself [D.E. 34].

85. Denied.

86. Denied. In further response, the defendant states that the transcript of hearing is filed with the Court and speaks for itself [D.E. 34].

87. Denied. In further response, the defendant states that the transcript of hearing is filed with the Court and speaks for itself [D.E. 34].

88. Denied.

89. Denied as worded. Admitted that Plaintiffs were notified of and instructed to remedy violations on property, but the inspector did not take further steps to prosecute violations.

90. The Court dismissed Count V of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 90.

91. The Court dismissed Count V of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 91.

92. The Court dismissed Count V of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 92.

93. The Court dismissed Count V of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 93.

94. The Court dismissed Count V of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 94.

95. The Court dismissed Count V of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 95.

96. The Court dismissed Count VI of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 96.

97. The Court dismissed Count VI of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 97.

98. The Court dismissed Count VI of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 98.

99. The Court dismissed Count VI of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 99.

100. The Court dismissed Count VI of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 100.

101. The Court dismissed Count VI of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 101.

102. The Court dismissed Count VI of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 102.

103. The Court dismissed Count VI of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 103.

104. The Court dismissed Count VI of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 104.

105. There is no paragraph 105.

106. There is no paragraph 106.

107. There is no paragraph 107.

108. The Court dismissed Count VI of the Second Amended Complaint. [D.E. 69]. Therefore, the Defendant does not respond to paragraph 108.

109. The Court dismissed all claims except for Count II (intrusion theory of invasion of privacy), Count III (trespass), and Count IV (procedural due process) of the Second Amended Complaint. [D.E. 69]. Therefore, the arguments contained on pages 32 through 34 of the Second Amended Complaint do not constitute a valid claim and do not require a response by Defendant. These arguments are in any event denied by Defendant, and have already been determined through administrative proceedings.

AFFIRMATIVE DEFENSES

110. The Plaintiffs have failed to state plausible claims.

111. The Plaintiffs are estopped from recovery because these claims have already been decided by other tribunals.

112. The Plaintiffs are precluded from recovery based on failure to exhaust administrative remedies.

113. The Plaintiffs' claims are precluded by sovereign immunity.

114. The Plaintiffs waived any requirements of procedural due process by conduct at the hearing.

115. The Plaintiffs' claim of trespass is precluded because of consent and/or implied consent to enter property.

116. The Plaintiffs' claim of invasion of privacy is precluded because of consent and/or implied consent to enter property.
117. The Plaintiffs' claim of trespass is precluded because there was no reasonable expectation of privacy as the outside premises were held as open to the public.
118. The Plaintiffs' claim of invasion of privacy is precluded because there was no reasonable expectation of privacy as the outside premises were held as open to the public.
119. The Plaintiffs' claim of trespass is precluded because the inspection was necessary in the exercise of the municipal police powers to remedy code violations
120. The Plaintiffs' claim of invasion of privacy is precluded because the inspection was necessary in the exercise of the municipal police powers to remedy code violations.

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By: s/ John A. Greco
John A. Greco
Florida Bar No. 991236

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on April 9, 2012, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached service list in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing. A true and correct copy of the foregoing has been furnished by U.S. Mail to Eugene and Cristina Steppe, 3270 Gifford Lane, Miami, Florida 33133.

By: s/ **John A. Greco**
John A. Greco
Florida Bar No. 991236

Doc.#310709

SERVICE LIST

Eugene Jobie Steppe and Cristina Maris Steppe v. City of Miami
Case no. 09-23305-CIV-WILLIAMS-TURNOFF
United States District Court, Southern District of Florida

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 09-23305-CV-WILLIAMS-TURNOFF

EUGENE JOBIE STEPPE and
CRISTINA MARIA STEPPE,

Plaintiffs,

vs.

CITY OF MIAMI, FLORIDA.,

Defendant.

_____ /

ORDER

This matter is before the Court on Defendant's Supplemental Motion for Extension of Time (DE 113). Upon review of the record and the motion, it is hereby **ORDERED AND ADJUDGED** that the motion is **GRANTED**. Defendant shall respond to any discovery heretofore served on it within 30 days after the mediation conference in this matter.

DONE AND ORDERED in chambers in Miami, Florida, this 5th day of June, 2012.



KATHLEEN M. WILLIAMS
UNITED STATES DISTRICT JUDGE