

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR VOLUSIA COUNTY, FLORIDA

WENDY PAGE

CASE NO:

Plaintiff,

v.

CITY OF DELTONA

Defendant.

_____/

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff WENDY PAGE, sues the CITY OF DELTONA as
follows:

ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action for damages that exceeds Fifty Thousand Dollars (\$50,000.00) exclusive of interest, costs and attorneys' fees.
2. Plaintiff WENDY PAGE was at all times material, and remains a resident of Volusia County, Florida.
3. Plaintiff, WENDY PAGE, was and is the owner and resident of real property located at 1240 Seybold Terrace, Deltona, Florida 32725.

4. Defendant, CITY OF DELTONA, is a political subdivision of the state of Florida, organized and existing pursuant to Article VIII, Section 1, of the Constitution of the State of Florida and to Chapter 126, Florida Statutes.

5. Defendant shall be deemed to include City of Deltona staff members as well as elected and appointed officials who have acted to deprive Plaintiff of her rights guaranteed to her by the Constitutions and Laws of the United States and of Florida.

6. The subject property and damages complained of occurred in the City of Deltona, Volusia County, FL.

7. All conditions precedent to the maintenance of this suit, including the pre-suit notice letter described in FS sec. 768.28, have been satisfied, performed or waived.

8. Plaintiff complained in April and May of 2022 of flooding from stormwater runoff into her backyard and into her home.

9. Phyllis Wallace, an employee and agent of the Defendant, came to Plaintiff's home to assess the damage and determine the cause. Ms. Wallace denied responsibility and further represented to the Plaintiff that the flooding was not caused by the City of Deltona, but by the neighbor directly behind Plaintiff's home.

10. Plaintiff hired someone with heavy equipment to move the dirt back in place and reinforce a retaining wall to stop the flow of water.

11. Plaintiff's efforts were unsuccessful as a subsequent heavy rain on August 17, 2022 again flooded her back yard and into her home. Plaintiff again notified the City of Deltona and provided a video of the water rushing into her backyard and destroying her retaining wall.

12. Again, Ms. Wallace refused to accept responsibility.

13. Recurring periodic flooding continued until the City made repairs to the drainage and pump system. Since those repairs, the property has not flooded again. However, the City of Deltona, through Phyllis Wallace, still refuses to accept responsibility and refuses to pay for the damages caused by the flooding.

14. The damage to Plaintiff's property is commercial and not merely aesthetic.

COUNT I – NEGLIGENCE

15. Plaintiff re-alleges paragraphs 1-14.

16. At all times material to this action, Defendant owed a duty of care to properly construct, operate and maintain projects to drain

storm water away from the homes of residents, including the home of the Plaintiff.

17. Defendant breached that duty and negligently failed to construct, maintain and operate proper drainage culverts and pumps to handle normal storm water drainage and allowed Plaintiff's yard and home to flood repeatedly with each heavy rain.

18. Defendant's breach of that duty proximately caused extensive damage to Plaintiff's personal and real property.

COUNT II NUISANCE

19. Plaintiff re-alleges paragraphs 1-18.

20. Defendant's negligence caused recurring and continuous damage to Plaintiff's real and personal property.

21. Defendant's employee, Phyllis Wallace's refused to accept responsibility and instead blamed a neighbor, when she knew or should have known that it was the city's obligation to properly manage stormwater runoff. As such, Wallace's misrepresentation operated as equitable estoppel against the City of Deltona's statute of limitations defense.

22. Each heavy rain operated as a new and recurring, temporary nuisance resulting from Defendant's continuing negligence.

WHEREFORE, Plaintiff, WENDY PAGE, demands judgment against Defendant, CITY OF DELTONA, for all damages allowed, including costs and attorney's fees, and demands trial by jury.

s/s Desiree Bannasch
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