

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

EVERETT BROTHERS RECYCLING,
INC. and WATERBLASTING
TECHNOLOGIES, LLC, d/b/a
HOG TECHNOLOGIES,

CASE NO.: 4D2023-2943

L.T. NO.: 21-1103 CA

Appellants,

v.

SA RECYCLING LLC and
MARTIN COUNTY, a political subdivision
of the State of Florida,

Appellees.

On Appeal from the Nineteenth Judicial Circuit in and for Martin
County, Florida

ANSWER BRIEF OF SA RECYCLING LLC

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I. STATEMENT OF CASE AND FACTS

SA Recycling LLC (“SA Recycling”) owns property in Stuart, Florida at 3951 SE Commerce Ave (the “Property”) and operates a metal recycling facility on the Property. Appellant, Everett Brothers Recycling, Inc. (“Everett”) operates a ‘recycling and salvage yard’ and a “scrap metal salvage yard” at a different location in Martin County miles from SA Recycling. [R. 453-454]. Appellant, Waterblasting Technologies, LLC d/b/a HOG Technologies (“HOG”) owns a 100,000 square foot manufacturing plant across the street from SA Recycling. [R. 454-455]. HOG filed suit claiming SA Recycling’s activities are an eyesore, causing dust and smoke to blow onto their own property, and that SA Recycling’s operations cause more traffic on the road. [R. 455]. Everett teamed up with HOG to file suit, claiming Martin County required Everett to make over \$800,000.00 in improvements to its property to comply with Martin County’s zoning requirements and that the same financial burden has not been imposed on SA Recycling. [R. 454].

In February 2019, Martin County issued code violations to the prior owner of the Property for improperly operating a salvage yard and storing inoperative vehicles, mechanical equipment, and junk.

[R. 472]. In May 2020, the prior owner and Martin County settled the code enforcement proceedings, which led to a written stipulation. The prior owner of the Property and Martin County entered into a '*Stipulation and Agreed Final Order*' for those alleged violations, which was approved by a special magistrate. [R. 522-524]. The Stipulation and Agreed Final Order allowed the prior owner (and therefore SA Recycling) to engage in scrap metal recycling permitted under the applicable zoning, but prohibited the prior owner from activities involving junk cars and hazardous motor vehicle fluid. [R. 522-524]. In the Stipulation and Agreed Final Order, Martin County and the prior owner of the Property agreed "Use of the property for scrap metal recycling is permitted which includes the receiving, packaging and shipping of scrap metal." [R. 522]. It is the Stipulation and Agreed Final Order that Appellants take issue with.

II. SUMMARY OF ARGUMENT

The trial court correctly dismissed the Second Amended Complaint with prejudice because the Appellants lacked standing and the trial court lacked subject matter jurisdiction over the claim by Appellants regarding Martin County's discretionary code

enforcement matters.

III. ARGUMENT IN RESPONSE TO APPELLANTS' INITIAL BRIEF

The trial court correctly dismissed the Second Amended Complaint with prejudice. The trial court lacked subject matter jurisdiction over Appellants' claims against Martin County which attempt to interfere with its discretionary code enforcement actions. *City of West Palm Beach, Inc. v. Haver*, 330 So. 3d 860 (Fla. 2021).

Appellants alleged that by entering into the Stipulation and Agreed Final Order and submitting it to the special magistrate to be entered in the prior code enforcement action (Martin County Code Enforcement Case No. GMD2020010197), Martin County violated the zoning regulations for the Property and have allowed an illegal “scrap metal salvage yard” to operate at the Property—even though the Stipulation and Agreed Final Order required the prior owner to “Immediately cease using the property as a salvage yard.” [R. 518]. This case involves nearly the exact same circumstances and issues as the *Haver* case recently before the Florida Supreme Court. See *City of West Palm Beach, Inc. v. Haver*, 330 So. 3d 860 (Fla. 2021).

Pursuant to the Florida Supreme Court's ruling in *Haver*, this

action was properly dismissed. In *Haver*, the plaintiffs filed their complaint and sought injunctive relief requiring the City of West Palm Beach to investigate and, if necessary, take enforcement action against a property owner's alleged zoning violation. *Id.* at 861. Another count sought a declaratory judgment that the City violated its ordinance by refusing to take enforcement action against the property owner. *Id.* The trial court dismissed all claims against the City, citing to *Detournay v. City of Coral Gables*, 127 So. 3d 869 (Fla. 3d DCA 2013). This Court then reversed the dismissal as to plaintiffs' claims for injunctive and declaratory relief. The Florida Supreme Court then partially quashed this Court's decision, stating "We quash the decision of the Fourth District in part. The cause is remanded with instructions that the [plaintiffs'] claims against the City for injunctive and declaratory relief be dismissed. We approve the result of the Third District's decision in *Detournay*." In *Detournay*, the Court stated:

We are sympathetic to the frustration of the Homeowners at the City's decision to abate its enforcement action against Amace, but we must defer to the City's right to exercise its discretion to seek a settlement that might accommodate the concerns of all parties. In this situation, the courts have no role in advising or directing a government when, if, and how to maintain an

administrative enforcement action: the role of the courts is limited to adjudicating any such action when it is properly at issue before them. To the extent that the Homeowners seek to have the City desist in its settlement efforts and instead vigorously prosecute the enforcement actions, they need to knock on the doors of city hall, not the courthouse.

Detournay v. City of Coral Gables, 127 So. 3d 869, 874 (Fla. 3d DCA 2013). This case and the Second Amended Complaint presented the exact same facts and circumstances. Appellants are attempting to interfere with Martin County's right to exercise its discretion in its code enforcement actions and right to seek a settlement that might accommodate the concerns of all parties. The trial court lacked subject matter jurisdiction over Appellants' claims which sought declaratory and injunctive relief determining Martin County violated its zoning ordinances by taking certain discretionary code enforcement actions. The trial court found in its order that Martin County had the discretion to file, prosecute, abate, settle or dismiss its code enforcement proceedings against the subject property and the prior owner. [R. 644]. Martin County made a discretionary code enforcement action when it entered into the Stipulation and Agreed Final Order and allowed for the Property to be used for a metal recycling facility, but not as a salvage yard. The trial court found

this interpretation by Martin County of its own code to be “within the range of possible interpretations”, and therefore gave deference to Martin County, affirming their discretionary action. [R. 644]. See *Pruitt v. Sands*, 84 So. 2d 1267, 1268-69 (Fla. 4th DCA 2012).

IV. CONCLUSION

The trial court did not err when it dismissed the Second Amended Complaint with prejudice. Appellants lack standing, and the trial court lacked jurisdiction to interfere with the discretionary code enforcement actions made by Martin County based upon its interpretation of its own code and land development regulations. The trial court’s order should be affirmed. Appellants’ remedy is through the county legislative process at “City Hall”, not in this Court.

DATED this 15th day of July, 2024.

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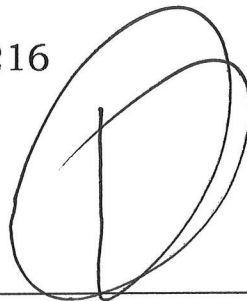
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing
has been sent via U.S. Mail and/or E-mail on this 10th day of July,
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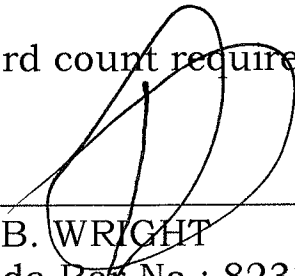
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CERTIFICATE OF COMPLIANCE

I CERTIFY that this brief complies with Florida Rule of Appellate Procedure 9.210(a)(2) because this is a computer-generated brief submitted in Bookman Old Style 14-point font and is in conformity with all font and word count requirements.



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