

**LEGISTAR NO.**

**160020**

IN THE CIRCUIT COURT OF THE  
EIGHTH JUDICIAL CIRCUIT, IN AND  
FOR ALACHUA COUNTY, FLORIDA

CASE NO.: 01-2016-CA-1444  
DIVISION: J

V.P. GAINESVILLE SOUTH, LLC,  
a Florida limited liability company,

Plaintiff,

vs.

CITY OF GAINESVILLE,

Defendant.

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### COMPLAINT

COMES NOW the Plaintiff, V.P. GAINESVILLE SOUTH, LLC, a Florida limited liability company, by and through its undersigned counsel, and sues Defendant, CITY OF GAINESVILLE, and alleges as follows:

### GENERAL ALLEGATIONS

1. This is an action for damages which exceeds Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, costs and attorney's fees.
2. Plaintiff, V.P. GAINESVILLE SOUTH, LLC (hereinafter "V.P. GAINESVILLE"), is a Florida limited liability company organized under the laws of the State of Florida and owner of the project known as Value Place Hotel Gainesville located in Alachua County, Florida.
3. V.P. GAINESVILLE's principal place of business located at 2110 Lake Drive, Winter Park Florida, 32789.

4. At all times material hereto the Defendant, CITY OF GAINESVILLE (hereinafter the "CITY"), acted through Gainesville's enforcement agency responsible for the issuance of permits, The City of Gainesville Building Department, located at 306 NE 6<sup>th</sup> Avenue #B, Gainesville, Florida 32601.

5. This claim relates and arises from the knowing and wrongful approval and permit issuance for the original fire protection system at the Value Place Hotel located at 5505 S.W. 41<sup>st</sup> Blvd., Gainesville, Florida 32608 (hereinafter the "Project").

6. Pursuant to Florida Statute §768.68, a notice letter was mailed to the City of Gainesville Building Department and the Florida Departments of Financial Services on April 30, 2015. (See notice letter attached hereto as "Exhibit A")

7. Pursuant to Florida Statute §768.68, a subsequent notice letter was mailed to the City of Gainesville Building Department and the Florida Departments of Financial Services on June 9, 2015. (See notice letter attached hereto as "Exhibit B")

8. Pursuant to Florida Statute §768.28(6)(c), V.P. GAINESVILLE hereby states that no prior adjudicated unpaid claim in excess of Two Hundred Dollars (\$200.00) exists that is owed by the V.P. GAINESVILLE to the state, its agency, officer or subdivision.

9. Pursuant to Florida Statute §768.28, V.P. GAINESVILLE'S Federal Tax Identification Number is 20-8542011.

10. Pursuant to Florida Statute §768.68 regarding waiver of sovereign immunity, all notice requirements and waiting periods have been satisfied prior to bringing this action.

11. All conditions precedent to bringing this action have been met, waived and/or performed.

**COUNT I – NEGLIGENCE (VIOLATION OF FLORIDA STATUTE §553.79)**

12. V.P. GAINESVILLE re-alleges and incorporates by reference the allegations contained in Paragraphs 1 through 11 above as if fully set forth herein.

13. Pursuant to Florida Statute §553.79, a building permit shall not be issued for any building construction unless the applicant for such permit complies with the requirement for plan review established by the Florida Building Commission within the Florida Building Code.

14. Pursuant to Florida Statute §553.79, an enforcing agency may not issue any permit for construction, erection, alteration, modification, repair, or demolition of any building or structure until the local building code administrator or inspector has reviewed the plans and specifications required by the Florida Building Code, or local amendment thereto, and found the plans to be in compliance with the Florida Building Code.

15. Section 105.3.1.2 of the 2007 Florida Building Code requires that a fire protection system in a building with more than 50 sprinkler heads be designed by a licensed engineer.

16. The Project included more than 50 sprinkler heads.

17. Section 61G15-32.004 of the Florida Administrative Code provides for the design requirements for water based fire protection systems, generally referred to as the “A to J criteria” (hereinafter the “A to J Criteria”). The design and construction of the fire protection system for the Project was required to satisfy the A to J Criteria.

18. Pursuant to §105.3.1.2 of the 2007 Florida Building Code, the CITY was required to ensure that plans and specifications meet the requirements of the A to J Criteria before issuing a permit.

19. Pursuant to Florida Statute, a permit for the Project could not be legally issued unless the required fire protection design prepared by a licensed engineer was submitted and reviewed and approved by a fire protection specialist certified under Florida Statute §633.081.

20. No fire protection plan prepared by a licensed engineer was reviewed by the City for compliance with the requirements of the A to J Criteria prior to the issuance of the building permit or the original construction of the Project,

21. No fire protection plan prepared by a licensed engineer was reviewed by a fire protection specialist certified under Florida Statute §633.081 for compliance with the requirements of the A to J Criteria prior to the issuance of the building permit or original construction of the Project.

22. City of Gainesville Building Department Fire Protection Specialist certified under Florida Statute §633.081 knowingly approved the permit for the fire protection design portion of the Project without ever reviewing the fire protection plans for compliance with the Florida Building Code or the A to J Criteria.

23. The CITY knew that the required information had not been submitted at the time of its approval of the general building permit (Building Permit # 20096918).

24. Building Permit # 20096918 was issued by the City with actual knowledge that the required fire protection plans had not been reviewed by a fire protection specialist certified under Florida Statute §633.081.

25. Subsequent to the issuance of Building Permit # 20096918, fire protection layout plans and submittal data with hydraulic calculations were submitted for separate permit by a fire protection contractor, First Coast Fire Sprinklers, Inc.

26. First Coast Fire Sprinkler, Inc. is not a licensed engineer.

27. The City of Gainesville Building Department Fire Protection Specialist certified under Florida Statute §633.081 knew that he was required by law to review the documents submitted by First Coast Fire Sprinklers, Inc. for compliance with the A to J criteria.

28. The City of Gainesville Building Department Fire Protection Specialist certified under Florida Statute §633.081 nor anybody else with the City of Gainesville reviewed First Coast Fire Sprinkler, Inc.'s submission for compliance with the A to J Criteria.

29. Despite the fact that the City of Gainesville Building Department Fire Protection Specialist certified under Florida Statute §633.081 had never reviewed the A to J Criteria, he approved First Coast's submission and issued the fire protection permit.

30. The system approved, permitted and installed materially deviated from the A to J Criteria and failed to meet minimum code requirements.

31. Additionally, during the course of construction, the CITY became aware that the approved and installed fire alarm system did not meet code.

32. Despite the fact the CITY became aware that the installed alarm system did not meet code, the installed system was subsequently approved under the guise of a variance.

33. No variance was ever applied for and the owner was never advised that the CITY had approved and allowed for the construction of a fire alarm system that did not meet code requirements.

34. The CITY had a duty not to issue permits until the pertinent requirements of the Florida Statutes, Florida Building Code and Florida Administrative Code had been complied with.

35. The CITY had a duty not to approve the installation of a fire alarm system the CITY knew failed to meet the requirements of the Florida Building Code.

36. The City of Gainesville knowingly and willingly breached its statutory duties.

37. V.P. GAINESVILLE was unaware of the City of Gainesville's knowing and willful failure to perform its statutory duties until December 2, 2013.

38. V.P. GAINESVILLE has suffered substantial damages in excess of Two Hundred Thousand Dollars (\$200,000.00) for which it has not been compensated as a result of the City's breach of its duty.

WHEREFORE, Plaintiff, V.P. GAINESVILLE SOUTH, LLC, demands final judgment against Defendant, CITY OF GAINESVILLE, for actual damages, costs, interest, attorney's fees and any further legal or equitable relief as this Court deems just and proper.

**JURY TRIAL DEMAND**

V.P. GAINESVILLE SOUTH, LLC hereby demands a jury trial in the above-styled action.

DATED this 22nd day of April, 2016.

HOWARD M. ALLEN | PLLC

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