

LEGISTAR NO.

110365

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

**CITY OF GAINESVILLE
CITY COMMISSION**

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CIVIL DIVISION

CHARLES BURGESS,
Petitioner,

Vs.

Case No. 01-2011-CC-3752

CITY OF GAINESVILLE,
Respondent.

**EMERGENCY PETITION
FOR INTERLOCUTORY INJUNCTION**

Petitioner, Charles Burgess, pro-se, herein petitions this Honorable Court, pursuant to Fla. R. Civ. Procedures, for the issuance of an Emergency Interlocutory Injunction based upon the following facts in support:

1. Petitioner is a business owner in the City of Gainesville FL., and owns four (4) lots of property in down town Gainesville; lots 11, 12, 13 and 19 located on 214 NE. 16th Ave., Lot 19 adjoins lot 18, which is the subject of this interlocutory injunction.
2. Petitioner purchased Lot 19 in July of 2001. Furthermore, petitioner has had unimpeded access, uses and maintains lot 18, next to lot 19, and has done so for over a decade. However, on September 13, 2011 petitioner was notified by Gainesville Regional Utility's (GRU) that he would have to remove his personal property, cut down the trees he planted and move his fence back 10 feet to allow room for a sewer and other utility lines.
3. Petitioner has since learned that these actions by (GRU) are directly promulgated by the City of Gainesville; to accommodate utilities for a new Shands medical center being built directly behind his property on lot 19.
4. Petitioner has tried numerous times over the past years to locate the owners of lot 18 and found that there were no current owners listed in either the County tax appraiser's office

or in the public records of Alachua County. The last known owners of said property were the (Pound family and their heirs); from 1912 through 1952. Petitioner has contacted both the City and County numerous times regarding said lot and was told that neither City nor County had any use or control of lot 18.

5. Petitioner is now claiming adverse possession of lot 18 which requires, at a minimum, basic conditions to be met to perfect the title to petitioner or (disseisor). As Florida Law states, actual possession of the property, the disseisor must physically use the land as a property owner, in accordance with the type of property; zoned commercial, location; Down Town Gainesville and uses; disseisor has owned and operated a tree business for over thirty years. Furthermore, the actions of the disseisor must change the state of the land, as by clearing, mowing, planting, logging or cutting timber, fencing, pulling tree stumps, and constructing buildings or other improvements, which disseisor has fully complied with.
6. Petitioner openly and notorious uses said property and is so visible and apparent that it gives notice to the legal owner, whom ever that maybe, that he asserts claim. Petitioner has demonstrated, through his actions, that such character would give notice to a reasonable person of his possession of lot 18.
7. Petitioner further asserts, that if the legal owner has knowledge, these elements are met; these elements can also be met by fencing, opening or closing gates or an entry to the property, posted signs, crops, buildings, or animals that a diligent owner could be expected to know about.
8. Furthermore, as this Court is well aware; through 1st DCA decisions or decisions ruled upon by the Florida Supreme Court, that through the (Exclusive) use of the property the disseisor holds the land to the exclusion of the true owner.

9. With the aforementioned being established, the petitioner must, for statute of limitations purposes; hold that he has continuously used said property for over the Statute of limitations period and has used it as a true owner for that time without interjection.

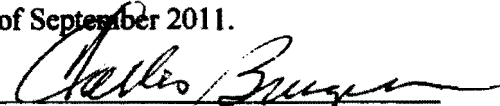
CONCLUSION

Petitioner is now faced with the prospect of interjection and encroachment by a third party, the City of Gainesville, which has no legal standing to said property, lot 18. The City maps all list lot 18 as no features found on layer 'Parcel Owner', as of September 15, 2011. It would appear that the City of Gainesville interest now lies with the Shands Corporation new facility and the revenue that could be generated by placating its needs, through tax payer dollars in the interim. Petitioner is a small business man that has been in the same business since 1974 and who now is trying to be ejected, by the City of Gainesville, from property that he maintained and improved for the past 10 years, unmolested. Petitioner stands to lose thousands of dollars in product, material and labor, past-present and future, if he is left at the hands of the City of Gainesville.

WHEREFORE, Petitioner humbly petition's this Honorable Court to Grant this Emergency Petition for Interlocutory Injunction and issue a temporary restraining order, directed to Respondent, that no further action on its' part shall be forthwith until such time as the rightful owner of lot 18 can be established and/or just compensation afforded to petitioner.

It Is So Prayed.

Respectfully submitted this 16th day of September 2011.


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