

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

BANKUNITED, N.A.,

Plaintiff,

v.

PERLA MACHAEN; ROBERT F.  
THORNE; CITY OF CORAL GABLES,  
FLORIDA; CONCRETE HOLDINGS &  
SERVICES, LLC D/B/A C & C  
CONCRETE PUMPING; ANY AND  
ALL UNKNOWN PARTIES  
CLAIMING BY, THROUGH, UNDER,  
OR AGAINST THE HEREIN NAMED  
INDIVIDUAL DEFENDANT(S) WHO  
ARE NOT KNOWN TO BE DEAD OR  
ALIVE, WHETHER SAID UNKNOWN  
PARTIES MAY CLAIM AN  
INTEREST AS SPOUSES, HEIRS,  
DEWISEES, GRANTEES, OR OTHER  
CLAIMANTS; and UNKNOWN  
TENANT, whose name is fictitious to  
account for parties in possession,

Defendants,

and

CITY OF CORAL GABLES,

Counterclaimant/Crossclaim  
Plaintiff/Third-Party Plaintiff,

v.

BANKUNITED, N.A.,

Counterclaim Defendant,

and

PERLA MACHAEN and ROBERT F.  
THORNE;

Crossclaim Defendants.

and

CENLAR FSB, a foreign corporation, and  
SAFEGUARD PROPERTIES  
MANAGEMENT, LLC d/b/a  
SAFEGUARD PROPERTIES, LLC, a  
foreign limited liability company,

Third-Party Defendants.

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CASE NO.: 19-10867 CA 01 (22)

GENERAL JURISDICTION DIVISION

**EMERGENCY VERIFIED MOTION FOR TEMPORARY INJUNCTION**

Defendant/Counterclaimant/Crossclaim Plaintiff/Third-Party Plaintiff, CITY OF CORAL GABLES (“CITY”), a Florida municipal corporation, hereby moves, pursuant to Fla. R. Civ. P. 1.610, for an expedited temporary injunction against the Plaintiff/Counterclaim Defendant, BankUnited, N.A. (“MORTGAGEE”); Defendant/Crossclaim Defendants, Perla Machaen and Robert F. Throne, the Property owners (jointly referred to as “OWNERS”); Third-Party

Defendant, CENLAR FSB, a foreign corporation and the first mortgage servicer (“SERVICER”); and Third-Party Defendant, Safeguard Properties Management, LLC d/b/a Safeguard Properties LLC, a foreign limited liability company and the Property Manager (“PROPERTY MANAGER”)(the foregoing Counterclaim Defendants, Crossclaim Defendants, and Third-party Defendants are collectively referred to as “RESPONSIBLE PARTIES”) and, and in support thereof, states as follows:

1. On August 20, 2019, the CITY filed its Verified Counterclaim, Crossclaim, and Third-Party Complaint for Expedited Temporary and Permanent Injunctive Relief and for Declaratory Judgment (“Claims”) in this matter, which are incorporated herein by reference. Counts I, III, V, and VII of the Claims seek temporary injunctive relief to enforce the CITY code by requiring the RESPONSIBLE PARTIES to correct continuing code violations on abandoned real property.

2. As stated in paragraphs 19, 35, 53, and 70 of the Claims, because the CITY is seeking an injunction to enforce its police power, irreparable harm is presumed. Nevertheless, the Claims set forth the irreparable harm to the CITY and its residents caused by the continuing violations of the CITY Code on the property. Moreover, Section 34-205(b) of the CITY Code, provides that the CITY shall be entitled to an injunction on an expedited basis.

3. None of the violations of the CITY Code alleged in the Claims have been corrected.

4. On the contrary, an additional violation of Section 34-202 of the CITY Code by failing to accurately register the Property as being vacant and in default of the mortgage. In fact, the abandoned property registration, which incorrectly showed the Property as occupied, expired on September 24, 2019).

WHEREFORE, the CITY respectfully requests that this Court: (1) issue, on an expedited basis, an immediate temporary injunction, pursuant to Fla. R. Civ. P. 1.610, that compels the RESPONSIBLE PARTIES to take all of the corrective action described in the Claims in order to remedy the continuing code violations; (2) issue, on an expedited basis, an immediate temporary injunction, pursuant to Fla. R. Civ. P. 1.610, that compels the RESPONSIBLE PARTIES to take all action necessary to maintain the Property in compliance with the CITY Code; (3) retain jurisdiction to award the CITY its reasonable attorney's fees and costs pursuant to Section 34-205(b) of the CITY Code; (4) retain jurisdiction of this matter for the purpose of enforcing this Court's order, including, but not limited to, by appointing a receiver pursuant to Fla. R. Civ. P. 1.620, and imposing sanctions, including but not limited to, finding the RESPONSIBLE PARTIES in contempt, if they do not promptly comply; and (5) grant any other relief the Court deems proper.

#### VERIFICATION

Pursuant to § 92.525, Fla. Stat., under penalties of perjury, I declare that I have read the foregoing Emergency Verified Motion for Temporary Injunction, and that the facts alleged and stated therein are true and correct to the best of my knowledge and belief.

s/ Adolfo Garcia \_\_\_\_\_  
Code Enforcement Officer  
City of Coral Gables

DATED ON: September 25, 2019

Respectfully submitted,  
Law Offices of Alexander L. Palenzuela, P.A.  
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By: s/ Alexander L. Palenzuela  
Alexander L. Palenzuela  
Florida Bar No.: 946095

### **CERTIFICATE OF SERVICE**

I hereby certify that the forgoing document has been furnished to Jonathan Blackmore Esq., Brian Albaum, Esq., Emilio R. Lenzi, Esq., and Jonathan Blackmore, *Counsel for Plaintiff, Bank United, N.A.*, Phelan Hallinan Diamond & Jones, PLLC, 2001 NW 64th Street, Suite 100, Fort Lauderdale, Florida 33309, primary email: [FL.Service@PhelanHallinan.com](mailto:FL.Service@PhelanHallinan.com); Alexander P. Almzan, Esq., and Johanna Castellon-Vega, Esq., *Counsel for Defendants, Perla Machaen and Robert F. Thorne*, Almazan Law, 7901 Ludlam Road, Suite 100, Miami, Florida 33143, primary email: [efile@almazanlaw.com](mailto:efile@almazanlaw.com), secondary email: [gbelaval@almazanlaw.com](mailto:gbelaval@almazanlaw.com); and Francisco Touron, III, Esq., and Timothy D. Corwin, Esq., *Counsel for Concrete Holdings & Services LLC.*, Taylor Espino Vega & Touron, PLLC, 201 Alhambra Circle, Suite 801, Coral Gables, FL 33134, primary emails: [ftouron@tevtlaw.com](mailto:ftouron@tevtlaw.com) and [tcorwin@tevtlaw.com](mailto:tcorwin@tevtlaw.com) by email on this 25th day of September, 2019 and shall be served by a process server on the Third-party Defendants, *CENLAR, FSB and Safeguard Properties Management, LLC d/b/a Safeguard Properties, LCC*, promptly after this motion is filed and a hearing is set.

s/ Alexander L. Palenzuela  
Alexander L. Palenzuela