

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

FLORIDA TEEPEE, LLC,
FREDERICK T. HOLLAND and
KATE F. HOLLAND

Plaintiffs,

v.

CIVIL ACTION NO.:

WALTON COUNTY, FLORIDA,
a political subdivision of the State of Florida,

Defendant.

_____ /

COMPLAINT
and WRITTEN NOTICE OF CLAIM PURSUANT TO F.S. §70.001

COMES NOW Plaintiffs, FLORIDA TEEPEE, LLC, FREDERICK T. HOLLAND and KATE F. HOLLAND (collectively “Hollands” or “Plaintiffs”), by and through the undersigned attorney, and sues WALTON COUNTY, FLORIDA (the “County” or “Defendant”), and as grounds respectfully state as follows:

JURISDICTION

1. This action arises under the Fifth and Fourteenth Amendments to the Constitution of the United States. Plaintiffs bring this action pursuant to 42 U.S.C. § 1983. Pendant claims under the Florida Constitution, Florida Statutes and Florida common law are also within the jurisdiction of this Court.

2. Jurisdiction in this Court is proper pursuant to the existence of a Federal question under 28 U.S.C. § 1331. Venue is proper under 28 U.S.C. §1391(b) as the Defendants and the subject property are located within this District.

PARTY PLAINTIFFS

3. Plaintiff, FLORIDA TEEPEE, LLC, is a Florida limited liability corporation with its principal place of business at 4497 State Highway 20W, Freeport, Walton County, Florida 32439 (“Florida Teepee” or “Teepee”).

4. Plaintiffs, FREDERICK T. HOLLAND and KATE F. HOLLAND, husband and wife, reside at 4497 State Highway 20W, Freeport, Florida 32439 and are the managers/owners of Florida Teepee (the “Hollands”).

PARTY DEFENDANTS

5. Defendant, WALTON COUNTY, FLORIDA (the “County”), is a political subdivision of the State of Florida, which imposes regulatory authority over real and personal property within its jurisdictional boundaries and may be served with process by serving Michael Barker, the Chairman of the Walton County Board of County Commissioners (the “BCC”), at 552 Walton Road, Defuniak Springs, Florida 32433.

GENERAL ALLEGATIONS

6. Notice of this Bert Harris Private Property Rights Protection Act, Florida Statute §70.001 claim was presented to Defendant by hand delivery and by U.S.

Certified Mail Return Receipt Requested and by regular mail on April 14, 2022. A true and corrected copy of the Notice letter and receipt is attached hereto and incorporated herein as Exhibit “ A.”

7. Plaintiff, Teepee, owns three parcels of real property containing approximately fifty one (51) acres (Parcel #s13-1S-20-32000-024-0000, 13-1S-20-32000-024-0010 and 13-1S-20-32000-030-0000) at 4497 State Highway 20W, Freeport, Walton County, Florida 32439, including two parcels with frontage on Whitfield and Miley Roads (the “Teepee Property”).

8. The Hollands purchased the Teepee Property on July 19, 2018 and June 7, 2019, moved their family to reside in one of the existing homes thereon, formed Teepee in 2019 and transferred title of the Teepee Property to Teepee on November 24, 2020.

9. The Hollands planned to develop the Teepee Property into a horse and agricultural farm business incorporating a variety of outdoor recreational activities which would be open to the public and where public events would be held including holiday celebrations, military, weddings, funerals, fund raising events with musical performances, construct a Campground/RV Park, improve an existing building into a general store and Café, have food and beverage trucks at various locations throughout, conduct artisanal and agricultural related uses such as a brewery,

construct a pole barn as an outdoor public performance area for events with a stage, seating, kitchen and food and beverage sales and have teepees on the Property for other gatherings (the “Intended Uses”) to be known as the Holland’s “Horse Power Pavilion”.

10. In 2018, the Hollands went to the County and met with County staff explaining their Intended Uses for the Property and requesting information from the County on what was permitted on the Property and the process to obtain all needed permits from the County for their Intended Uses.

11. The County directed the Hollands that they would be able to construct and use the Property for all of their Intended Uses but only if the Hollands and Florida Teepee applied and were granted a variance and a conditional use by the County through its Zoning Board of Adjustments.

12. In 2018 and throughout all times relevant to this action, the County knew that each of the Intended Uses were permitted as of right on the Property and that no conditional use was ever required for any of the Intended Uses, yet subjected the Hollands and the Property to the unduly burdensome limitations of a conditional use approval rather than a simple Development Order application.

13. The only possible need for a County approval through the Zoning Board of Adjustments would be for a variance to permit a cluster of neighborhood

commercial uses, if neighborhood commercial uses were contemplated, at the Property closer than 1 linear mile from the next nearest commercial use to the Property, pursuant to Walton County Land Development Code (“LDC”) Section 2.02.03 D (1) (a), as there existed another commercial use within the 1 linear mile restriction of the Property.

14. The LDC provides that the Property is zoned Estate Residential, which is described at Section 2.02.03 B to permit the following uses as of right without any conditional use approval:

“3. Agricultural uses subject to Subsection G below including supporting accessory structures....”

“5. Civic uses....”

“9. Artisanal uses.”

15. The LDC permits as of right on a Property zoned Estate Residential at Section 2.02.03 G “Agriculture or functionally related agricultural use *related commercial* or neighborhood commercial uses” to parcels five (5) acres or larger. [Emphasis added], not as a conditional use but as of right. The allowance in Estate Residential by conditional use is limited only to “neighborhood commercial development” in Section 2.02.03 D.

16. The LDC permits as of right on a Property zoned Estate Residential at Section 2.02.03 G “outdoor recreational activities *such as* ...recreational vehicle

parks or campgrounds connected to outdoor recreational uses and riding or boarding stables.” [Emphasis added], not as a conditional use but as of right.

17. The LDC defines Agricultural Uses in Section 2.03.00 as: “The practice of using natural resources to produce goods and food products. Activities within land areas which are predominately used for the cultivation of crops and livestock including: cropland; pastureland; orchards; vineyards;... and specialty farms;... including barns, sties, pens, corrals, stables, greenhouses... and other substantially similar facilities and structures...”

18. The LDC does not define Agriculture related commercial uses which are permitted by right, not conditional uses, but does define Agritourism and Agribusiness uses in Section 2.03.00 as:

“Vegetable and food processing plants used for cooking, dehydrating, bottling, refining, distilling, and other methods that change a naturally grown product into another consumer use;...winery, fruit and vegetable stands, farmers markets, agricultural product venues and festivals and similar uses;...Farm to table and local farm business models are allowed and encouraged including restaurant and retail venues which are used to promote farm to table or locally grown and distributed business models.”

19. The LDC defines Functionally Agricultural Related Uses in Section 2.03.00 as: “...recreational vehicle parks and campgrounds, riding and boarding stables...”.

20. The LDC defines Civic Uses in Section 2.03.00 as: “...Any of the following uses designed to provide focal points for community interaction and to foster citizen participation in civic activities...meeting halls or clubhouses; ... or similar facilities; performance theaters;...playgrounds,... and parks available to the public;...a public- or semi-public institutional use of a charitable, philanthropic... character;...lodge;”

21. The LDC defines General Commercial Uses in Section 2.03.00 as: “...recreational vehicle and travel trailer parks,...taverns, bars, lounges, nightclubs, and dance halls, theaters and auditoriums...”

22. The LDC defines Artisanal Uses in Section 2.03.00 as: “the making of crafts made by hand and manual labor in media *such as* ... food products, such as bread, beverages and cheese.” [Emphasis added]

23. The LDC does not define Performance Theaters but does define Outdoor performance areas in Chapter 9 Glossary as: “an area permanently dedicated to the public presentation of music, dance, theater, media arts, storytelling, oratory or other performing arts, *whether publicly or privately owned*, including but not limited to amphitheaters and *similar open or semi- enclosed structures*.” [Emphasis added]

24. The LDC also permits as of right without any conditional use approval on Estate Residentially zoned properties in Section 2.02.03C(1): “Accessory

structures and uses in connection with any lawfully existing primary uses.” Accessory structures and uses are defined in Chapter 9 of the LDC as “A subordinate use or building customarily incidental to and located on the same lot with the main use or building.” Section 2.02 00 B(1) of the LDC also provides: “Any number of different accessory structures may be located on a parcel...”

25. The LDC also provides that Roadside Vending Operations are permitted in any district. Further the State of Florida preempts the County from licensing, permits, registrations and fees for mobile food dispensing vehicles, in Florida Statutes 509.102.

26. The County also adopted a separate ordinance 2008-29 which purported to regulate outdoor events in the County known as “Article II. OUTDOOR EVENTS” (the “Event Ordinance”). The Event Ordinance permits any planned assemblage of the general public held outdoors anywhere within the unincorporated areas of Walton County. “Outdoor Events may include, but are not limited to, contests, fairs, carnivals, festivals, concerts, seasonal or annual events, competitions, car shows, art/craft shows, or other similar activities...”. The Event Ordinance at Section 4.27 B lists exemptions to the permitting requirements including “Existing business or entities that have development order approval for outdoor events as an accessory use and when no public (i.e. citizens of Walton County) liability exposure exists.”

27. In reliance upon the County and its staff's direction, the Hollands retained the engineer suggested by the County to prepare a site plan, an application, and thereafter submit the application for Development Order to the County, which Defendant County then processed the application through a hearing before the County Zoning Board of Adjustments for a variance and for a conditional use for a 24.29 acre portion of Parcel #13-1S-20-32000-024-0000 of the Teepee Property (the "Property").

28. The Hollands, through Michelle Baker with Baker Engineers, LLC, submitted a site plan to Walton County, Florida for the Intended Uses at the Property on February 25, 2019; this plan included an "events" area with outdoor seating for 250 people, a general store with a brewery, a café with outdoor patio deck, a pole barn for an additional recreational area, a fifty five (55) space RV park with campground, horse pastures and a recreational pond, without any limitations contained therein as to the types of events such as weddings.

29. On February 28, 2019, the Walton County Zoning Board of Adjustment ("BOA") met to consider the Hollands' request for a Development Order to proceed with their Intended Uses at the Property, the County chose to process this request as a Variance on the 1 linear mile limitation for neighborhood commercial uses and Conditional Use for the café and for a "wedding venue" for the Property.

30. As the above quoted sections of the LDC provide, the Hollands never needed a conditional use to proceed with the Development Order for their Intended Uses and would never have subjected the Property to specific use limitations and prohibitions that were applied through the County conditional use process, including but not limited to a prohibition on any “events” at the Property other than “weddings”, but for the misrepresentations made by the County and relied upon by the Hollands to their detriment.

31. At the hearing held February 19, 2019, at the County BOA, Kate Holland told the BOA repeatedly that it was her intention to open the Property to the public for events, including seasonal events for Christmas, and to support the community fund-raising events; despite those statements, the County BOA improperly granted the unneeded conditional use, improperly attempting to limit the future use of the Property through the “conditional use” process to the specific locations and named activities on the site plan, without any consideration that the twenty four plus acre site was zoned and permitted as of right for many other and multiple uses and structures.

32. Despite the conditional use hearing, the County continued to misrepresent to the Hollands and Teepee that they would be able to hold events at the Property as intended, only needing to apply for event permits when needed. At the BOA hearing, the County Planning Director, Mac Carpenter, confirmed under oath that outdoor music was permitted as of right for the Property; there was no prohibition.

33. In reliance upon the misrepresentations and the approval granted at the County BOA hearing, the Hollands and Teepee prepared construction plans and incurred expenses in submitting applications to the County and the State of Florida agencies, which issued permits necessary to proceed with the Intended Uses.

34. The County delayed issuing the written approval from the County BOA until April 15, 2019, when the Walton County BOA issued an Order approving the variance, stating that a neighborhood commercial development could be located on the Property, without any other limitations in the order.

35. The County also delayed issuing the written approval until April 15, 2019, when the County BOA issued an Order approving a conditional use for a wedding venue and a café at the Property, without any other limitations in the order, prohibiting any other permitted uses on the Property.

36. On May 15, 2019, Elizabeth Clements Billhimer (“Billhimer”), a nearby property owner, filed a Writ of Certiorari in the Circuit Court of the First Judicial Circuit against Walton County, acting by and through its Zoning Board of Adjustment, on behalf of her family members, alleging that Walton County improperly approved the County’s variance and conditional use for the Property (the “Billhimer Appeal”).

37. In response to the Billhimer Appeal of the conditional use approval, the County improperly delayed any ability of the Hollands and Teepee from remodeling

and opening the café at the Property, not even approving a conditional Development Order MIN19-000005 for the Property until August 27, 2019 (the “2019 D.O.”). A true and corrected copy of the Development Order MIN19-000005 is attached hereto and incorporated herein as Exhibit “ B”.

38. The 2019 D.O. specifically provided on page 5 that the Hollands and Teepee would be allowed to have special events at the Property not limited to weddings. Until the actions taken by the County in April of 2021, the County maintained that seasonal festivals would be allowed at the Property and other special events would be permitted through the outdoor events ordinance.

39. In continuing reliance upon the County’s misrepresentations about the Hollands’ and Teepee’s ability to construct, remodel and operate the Property, on September 23, 2019, the Hollands and Teepee prepared and expended significant funds to submit the application, site plan, construction drawings, traffic and stormwater reports necessary to Walton County, Florida Building Department to obtain building permits for construction, remodeling and commercial construction for the Intended Uses on the Property.

40. Despite its representations and approvals for the Intended Uses, the County failed to approve and issue the building permits for the construction, bowing instead to the demands of opponents, including Billhimer, who often daily contacted

the County with unsubstantiated opposition to the Hollands' and Teepee's legal Intended Uses of the Property.

41. On January 2, 2020, the Circuit Court for the First Judicial Circuit issued its Final Order Denying Billhimer's Petition for Writ of Certiorari.

42. Despite the application and plans being submitted by the Hollands and Teepee for four (4) months without any action by the County, the County next demanded that the Hollands and Teepee expend more significant monies on a new application for Development Order and permits, after the Billhimer appeal was denied.

43. On January 28, 2020, the County issued an Amended Development Order for the Property acknowledging approval for 3,000 square feet of area for public assembly, a café with brewery and bar; nothing in the 2020 Amended Development Order ever even suggested that special events at the Property would be limited to weddings (the "2020 Amended D.O."). A true and corrected copy of the 2020 Amended Development Order MIN19-000005 is attached hereto and incorporated herein as Exhibit "C".

44. In further reliance on the misrepresentations of the County, the Hollands and Teepee expended significant sums to revise the construction drawings and applications for buildings permits again.

45. Between March and July of 2020, the County and the entire world were struck by the Covid Pandemic and inside functions, events and dining were either illegal or impossible.

46. On July 14, 2020, Teepee filed its applications for a building permit to construct the pole barn, which was approved as part of both the 2019 and the 2020 Amended Development Order.

47. On July 14, 2020, the County issued the permit and approved a field change to the 2020 Amended Development Order to add a handicapped ramp and parking spaces, a concrete pad and ADA walkway, an outside ADA bathroom at the café for use only for events at the pole barn, additional parking at the pole barn, a stage and food and beverage service area so that the pole barn could be used for public events, providing a meeting area for the public which was outside, all of which Teepee then constructed, in reliance upon the County approvals.

48. Teepee installed two metal shipping containers under the Pole Barn to allow for a public performance theater stage and the service of food and drink to the public who were attending these public functions, in the outdoor performance area.

49. In 2020, the County building inspectors inspected the pole barn, the ADA bathroom, and access areas, the theater stage and the food service areas at the Property; Teepee immediately complied with each requested modification demanded by the County building inspectors.

50. In 2020 and 2021, County staff frequented the public events held at the pole barn and one County Commissioner even held his campaign events at the public facility at the Property.

51. In 2020 and 2021, many public events were held at the Property, including within the pole barn, of a civic nature, for public musical performances, weddings, funerals, car shows and civic fund-raising events.

52. In 2020, Teepee applied for special event permits on several occasions, and the County refused to consider or grant the permits.

53. Throughout 2020 and 2021, Teepee continued to submit applications, studies, engineering information all in response to continued comments from County staff.

54. The Teepee application for building permit for construction and remodeling, pursuant to the 2019 Development Order, which was submitted in 2019, was never approved or denied by the County.

55. Teepee continued to submit applications for special events in 2021, but the County chose to never consider approval or denial.

56. Throughout 2019, 2020, 2021 through the present, the County has allowed a variety of business and property owners in Walton County to hold special events at their similarly situated properties to the Property regardless of their development order limitations and regardless of the zoning category.

57. Walton County Commissioner Trey Nick holds multiple special outdoor events at his property, zoned Rural Village, where Nick's Seafood Restaurant is located on Highway 20, which is similarly situated to the Property, including the 2nd Annual Pigs on the Beach event to be held on April 24, 2022, hosting thousands of visitors to food, alcohol and outdoor music. As this is only the 2nd occasion of this event it could not be grandfathered in, and yet the County allows this property to hold a special event with outdoor entertainment prohibited by the zoning.

58. The County permits the similarly situated Village of Baytown Wharf to hold multiple outdoor special events with food, alcohol and music throughout the year, despite the fact that it is zoned Coastal Center, which specifically prohibits any outdoor entertainment or broadcasting and such events are not specifically permitted in its Development Order.

59. The County permits the similarly situated Grand Boulevard Town Center to hold multiple outdoor special events in what it advertises as its "outdoor theater" with food, alcohol and music throughout the year, despite the fact that it is zoned Coastal Center, which specifically prohibits any outdoor entertainment or broadcasting and such events are not specifically permitted in its Development Order.

60. The County permits the similarly situated Concoran Reverie residential office building located on Highway 30A to hold multiple outdoor special events with

food, alcohol and music throughout the year, despite the fact that it is zoned Residential Preservation, which specifically prohibits any outdoor entertainment or broadcasting and such events are not specifically permitted in its Development Order.

61. After a year of the Hollands' and Teepee's successful and publicly well-loved civic operation of outdoor special events at the Property, bowing to opponents like Billhimer and competition from County Commissioner Nick and others who operated competing outdoor special events at their Walton County located properties, on April 19, 2021, the County issued a Stop Work Order to prohibit all outdoor events, activities and/or gatherings at the Property of any kind, to shut down the Holland's and Teepee's lawful use of their Property. Attached hereto and made a part hereof as Exhibit "E" is the April 19, 2021, Stop Work Order when the County first applied its actions to deny the Plaintiffs' lawful uses of the Property.

62. Thereafter, the County continued to issue unlawful stop work orders and alleged code violations to Teepee anytime the Hollands or Teepee attempted to make any legal use of their Property, also while the County unlawfully refused to consider or to issue any permits for the Property, taking Teepee before a code magistrate on two occasions, neither of which resulted in the issuance of any fines to Teepee.

63. In an attempt to mitigate the alleged violations with additional permit applications, on December 9, 2021, Teepee timely applied to the County for a Less

than Minor change to the Amended Development Order pursuant to the LDC, despite the fact that the County already approved the use of the pole barn through a field change to the development order; had issued building permits for the pole barn, its parking, its handicapped bathroom, stage and food service area; Teepee applied to move the square footage approved for public assembly in the 2020 Amended Development Order a few hundred feet to the area of the previously approved pole barn.

64. On December 13, 2021, the County Planning Director, Mac Carpenter, without any discussion or attempts to resolve this matter, denied the application for the Less than Minor Amendment to the Development Order to allow the continued lawful use of the pole barn and its attendant previously approved and used improvements.

65. This matter is ripe for consideration by this Court as the County's actions are final; the Plaintiffs, the Hollands and Florida Teepee, LLC, have exhausted all non-futile administrative remedies to resolve these unlawful acts by the Defendant County and all conditions precedent to the bringing of this action have been met by Plaintiffs.

COUNT I
EQUAL PROTECTION- 42 U.S.C. § 1983

66. This action is brought for damages for violation of the Fourteenth Amendment of the Constitution of the United States of America and other appropriate

relief under 42 U.S.C. § 1983 for violation of Plaintiffs' civil rights under color of law.

67. Plaintiffs reallege and reincorporate herein by reference Paragraphs 1 through 65.

68. By its actions, Defendant County violated the Fourteenth Amendment of the Constitution of the United States of America by their infringement of Plaintiffs' right to equal protection under the law by Defendant's unequal treatment of Plaintiffs, which is actionable pursuant to 42 U.S.C. § 1983.

69. Although Plaintiffs demanded equal treatment, Defendant has selectively chosen to allege numerous code violations upon the Plaintiffs' real property, while blatantly ignoring the same code issues committed by similarly situated properties and therefore, selectively discriminate against Plaintiffs.

70. At all times herein, Defendant's acts were committed under the color of law.

71. Defendant's actions, as set forth herein above, were committed by it and its staff even though the law established the contours of the Plaintiffs' rights so clearly that a reasonable official would have understood that such unequal and disparate treatment was a clear violation of Plaintiffs' constitutional rights.

72. Plaintiffs, by virtue of their ownership of the Property, have a property interest worthy of constitutional protection and Defendant's discriminatory governmental actions encroach upon a fundamental right created by the Constitution of the United States of America for equal treatment.

73. As a consequence of Defendant's acts as set forth herein above, Plaintiffs have been required to obtain the services of the undersigned law firm to assert their claim and have agreed to pay the firm a reasonable fee for the services.

WHEREFORE, Plaintiffs, FLORIDA TEEPEE, LLC, FREDERICK T. HOLLAND and KATE F. HOLLAND, individually, respectfully request that this Court grant them a permanent injunction, damages incurred due to the Defendant's actions, compensatory damages, plus prejudgment per diem interest thereon, and for such other and further relief as the Court deems just and proper. Plaintiffs additionally request that the Court, in its discretion, award them reasonable and necessary attorney's fees as part of the costs of this case pursuant to 42 U.S.C. 1983.

COUNT II
VIOLATION OF FLA. CONST. ARTICLE I SECTION II

74. This action is brought forth for damages for violation of Article I Section II of the Constitution of the State of Florida.

75. Plaintiffs reallege and incorporate herein by reference Paragraphs one (1) through sixty five (65) as if stated fully herein.

76. By its actions, Defendant violated Article I Section II of the Florida Constitution by its infringement of Plaintiffs' right to acquire, possess, and protect property, which is actionable pursuant to Article I Section II of the Constitution of the State of Florida.

77. Defendant, specifically the County Planning Department and its Director, Mac Carpenter, and the Code Enforcement Division infringed upon Plaintiffs' basic rights outlined in Section 2, by continuously harassing Plaintiffs through excessive and false code violations, singling out Plaintiffs for alleged violations, while ignoring the same matters by other similarly situated property owners in Walton County, Florida.

78. As a consequence of Defendant's acts as set forth herein above, Plaintiffs have been required to obtain the services of the undersigned law firm to assert their claim and have agreed to pay the firm a reasonable fee for its services.

WHEREFORE, Plaintiffs, FLORIDA TEEPEE, LLC, FREDERICK T. HOLLAND and KATE F. HOLLAND, respectfully request that this Court grant them a permanent injunction, damages incurred due to the Defendant's actions, compensatory damages, plus prejudgment per diem interest thereon, and for such other and further relief as the Court deems just and proper.

COUNT III
PRIVATE PROPERTY RIGHTS
FLORIDA STATUTES § 70.001
FLORIDA TEEPEE, LLC v. WALTON COUNTY, FLORIDA

79. This is an action for private property rights protection and for damages pursuant to § 70.001, Florida Statutes.

80. Florida Teepee realleges and incorporates herein by reference Paragraphs one (1) through sixty five (65) as if stated fully herein.

81. On April 19, 2021, the County chose to deny Teepee the right to use or develop its Property for its lawful Intended Uses, including but not limited to special outdoor public civic events.

82. By refusing to grant Teepee's lawful use of the Property, the Defendant, Walton County, took an action which inordinately burdened Teepee's reasonably foreseeable, nonspeculative or vested use of the Property.

83. Attached hereto as Exhibit D is a true and correct copy of an Appraisal Report for the Property, prepared by Jason Shirey, MAI, of EquiValue Appraisal, LLC, State Certified General Real Estate Appraiser, which assesses the loss of value for the Property due to the County inordinately burdening it, as of April 19, 2021.

84. Pursuant to F.S. §70.001(4)(a), on April 15, 2022, Plaintiff Teepee, through the undersigned attorney, presented a written claim and a bona fide, valid

appraisal supporting said claim to the County. Further, Plaintiff Teepee concurrently presented the written claim and copy of said appraisal to the Bureau of State Liability and Property Claims. A true and correct copy is attached hereto as Exhibit A.

85. Defendant County failed to make a written settlement agreement as required by Section 70.001(4)(c), Florida Statutes, within the 90-day-notice period.

86. Defendant County also failed to issue a written ripeness decision during the 90-day-notice period as required by Section 70.001(5)(a), Florida Statutes, deeming this action ripe for the purposes of filing this lawsuit.

WHEREFORE, Plaintiff, FLORIDA TEEPEE, LLC, requests judgment against the Defendant, Walton County, and requests this Court to award it damages; plus prejudgment per diem interest thereon; and demand a jury to try the cause, recovery of the costs incurred in this action, reasonable attorney's fees pursuant to F.S. §70.001 and requests such further and other relief as this Court deems proper.

COUNT IV
INVERSE CONDEMNATION
ARTICLE X §6(a) FLORIDA CONSTITUTION

87. This is an action for inverse condemnation, for damages that exceed the amount of \$30,000.00, and is within the jurisdiction of this Court.

88. Plaintiffs reallege and incorporate herein by reference Paragraphs one (1) through sixty-five (65) as if stated fully herein.

89. Defendant, Walton County, intended, or knew, or had substantial reason to know, that the aforementioned actions would cause the Plaintiffs to lose the use of their real property interest in the Property and their personal property.

90. These actions on the part of Defendant amount to a deliberate physical invasion, intrusion and substantial interference of the Property, tantamount to the physical taking of the Plaintiffs' real and personal property.

91. The Defendant's actions constitute a taking and are ripe.

92. The Defendant's actions render the Property and the personal property a part thereof, without beneficial use.

93. The Defendant's actions have resulted in a substantial deprivation of the beneficial use of the Property, in violation of Article X §6(a) of the Florida Constitution.

94. All conditions precedent to the bringing of this action have been met by Plaintiffs.

95. As a consequence of Defendant's taking of the Property without compensation, Plaintiffs have been required to obtain the services of the undersigned law firm to assert their claim and have agreed to pay it a reasonable fee for the services.

96. Plaintiffs are entitled to their reasonable attorney's fees, costs and prejudgment interest pursuant to Sections 73.091, 73.092 and 74.061, Florida Statutes.

WHEREFORE, Plaintiffs, FLORIDA TEEPEE, LLC, FREDERICK T. HOLLAND and KATE F. HOLLAND, respectfully request that this Court grant the Plaintiffs the aforementioned relief, including compensatory damages, plus prejudgment per diem interest thereon, trial by jury, and any other and further relief that the Court deems just and proper. The Plaintiffs additionally request that the Court, in its discretion, award Plaintiffs' reasonable and necessary attorney's fees as part of the costs of this case pursuant to Sections 73.091, 73.092 and 74.061, Florida Statutes.

COUNT V
FLORIDA CONSTITUTION
EQUAL PROTECTION

97. This action is brought for damages against the Defendant for violation of Article I Section 2 of the Florida Constitution for violation of the Plaintiffs' constitutional rights, which mandates that "All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property."

98. Plaintiffs reallege and incorporate herein by reference Paragraphs one (1) through sixty-five (65) as if stated fully herein.

99. By its actions, the Defendant has violated the Florida Constitution by its infringement of the Plaintiffs' right to equal protection under the law by Defendant's intentional unequal, arbitrary, and capricious treatment, when it allowed similarly situated properties to be used and improved for special outdoor public events and by singling out the Plaintiffs to be required to obtain a conditional limiting use permit to use the Property for those uses that are permitted as of right.

100. Although the Plaintiffs demanded to be treated fairly and equally, the Defendant selectively and arbitrarily chose to deny their use of the Property while allowing other similarly situated properties to use their similar properties without the need for a conditional use permit and to conduct special outdoor public events at their properties; and therefore, selectively discriminates against the Plaintiffs without any rational basis. Defendant has chosen to treat the similarly situated properties preferentially, damaging the Plaintiffs. The actions of the Defendant bear no reasonable relationship to a legitimate legislative objective and are discriminatory, arbitrary, capricious, and oppressive.

101. At all times herein, the acts of Defendant, as contained in Paragraphs one (1) through sixty five (65), were committed under the color of state law.

102. The actions of Defendant, as set forth herein above, were committed by Defendant even though the law established the contours of the Plaintiffs' rights so clearly that the County would have understood that such unequal and disparate treatment was a clear violation of the Plaintiffs' constitutional rights.

103. The Plaintiffs have a property interest worthy of constitutional protection and the Defendant's discriminatory and arbitrary governmental actions encroach upon a fundamental right created by the Florida Constitution for equal and fair treatment.

104. The Defendant acted with an improper motive, without reason, or upon a reason that was merely pretextual. Such acts were committed intentionally, with reckless indifference, or with malice to the constitutionally protected rights of the Plaintiffs.

105. As a consequence of the acts of the Defendant as set forth herein above, the Plaintiffs have been required to obtain the services of the undersigned law firm to assert their claim and have agreed to pay the law firm a reasonable fee for legal services.

WHEREFORE, Plaintiffs, FLORIDA TEEPEE, LLC, FREDERICK T. HOLLAND and KATE F. HOLLAND, respectfully request that this Court grant the Plaintiffs the aforementioned relief, including compensatory damages, plus prejudgment per diem interest thereon, trial by jury and any other and further relief that the Court deems just and proper.

COUNT VI
EQUITABLE ESTOPPEL

106. This is an action for equitable estoppel under Florida common law against the Defendant, for injunctive relief and damages that exceed the amount of \$30,000.00, and is within the jurisdiction of this Court.

107. Plaintiffs reallege and incorporate herein by reference Paragraphs one (1) through sixty-five (65) as if stated fully herein.

108. Plaintiffs relied in good faith upon the representations made by the County and its staff as described above to expend substantial funds in engineering, surveying, and construction costs to be able to use the Property for their Intended Uses.

109. Plaintiffs made a substantial change in position and incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy their rights acquired in good faith upon the actions and inactions of the County.

110. Defendant's actions render the Plaintiffs Property and expenses without beneficial use.

WHEREFORE, Plaintiffs, FLORIDA TEEPEE, LLC, FREDERICK T. HOLLAND and KATE F. HOLLAND, respectfully request that this Court grant the

Plaintiffs the aforementioned injunctive relief, including compensatory damages, plus prejudgment per diem interest thereon, trial by jury, and any other and further relief that the Court deems just and proper.

JURY DEMAND

Pursuant to Rule 38, Federal Rules of Civil Procedure and the Florida Rules of Civil Procedure, Plaintiffs hereby demand a trial by jury.

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