



INSTITUTE FOR JUSTICE

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Via Electronic Mail

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RE: City of Alachua's Removal of Tiny Houses

Dear Mayor Coerper and City of Alachua Officials,

I am contacting you because it has come to my attention that the City of Alachua has ordered Krsna Balynas and Govinda Carol to immediately remove their four tiny houses on wheels from their property and threatened them with arrest if they do not. My understanding is that this ejection comes approximately two years after the city first became aware of the tiny houses' presence on the property. Further, it is also my understanding that the city had previously suggested the tiny houses might violate Alachua's code, only to retreat from its position and advise Krsna and Govinda that they could continue with their tiny house business.

The Institute for Justice ("IJ") is the nation's leading law firm for liberty and a nationally recognized advocate for property rights. IJ has enjoyed repeated success at the state and federal level in defense of property rights. And it is in that capacity—as a property-rights advocate—that

I am contacting you today. Simply put, I believe Alachua's current enforcement action against Krsna and Govinda violates their rights.

Krsna and Govinda relied on the city's assurances when they decided to turn their tiny houses into their full-time careers. They incurred substantial expense in their campaign to build a successful business fabricating, selling, renting, and managing their tiny homes. Everything was above-board. They have an array of credentials signaling the legitimacy of their enterprise: They have a license from the state, pay tax to the county, and have been inspected by city officials. They pay tourist taxes. Their tiny houses are safe and built to comply with industry guidelines. And yet, last week, after two years of operating without incident, Alachua officials ordered Krsna and Govinda to remove their tiny homes almost immediately.

To anyone's eyes, this is obviously deeply unfair. But it is more than just unfair. It is *illegal*. Alachua officials represented to Krsna and Govinda that their tiny houses would be classified as RVs for purposes of the application of the city's code. That stance was then reaffirmed by two years of non-action on the part of the city—when it would have had a duty to act if it thought otherwise. So Krsna and Govinda relied on the city's words and deeds, which was reasonable for them to do. The city cannot rescind its permission now and, in the process, destroy Krsna and Govinda's blossoming business. *Pasco Cty v. Tampa Dev't Corp*, 364 So. 2d 850, 852–53 (Fla. 2d DCA 1978) (“A citizen is entitled to rely on the assurances and commitments of a zoning authority and if he does, the zoning authority is bound by its representations, whether they be in the form of words or deeds.”); *Town of Laargo v. Imperial Homes Corp.*, 309 So. 2d 571 (Fla. 2d DCA 1975) (“The doctrine of equitable estoppel is applicable to local government . . . when a property owner” relies in good faith, on some act or omission of the government, has made a substantial change in position or incurred such extensive obligations and expenses “that it would be highly inequitable and unjust to destroy the rights he has acquired”). Indeed, rescinding the notice of violation and instructing Krsna and Govinda to secure transient lodging licenses and pay Alachua County Tourist Taxes—which they did, and do—is tantamount to inviting them onto a proverbial welcome mat “and then . . . snatch[ing] the mat away to the detriment of the party induced or permitted to stand there on.” *Jacksonville v. Coffield*, 18 So. 3d 589 (Fla. 1st DCA 2009).

The city's interpretation of the state building code is also completely arbitrary and irrational and regulates Krsna's and Govinda's tiny homes in a manner that exceeds the scope of their authority to do so. After two years and numerous meetings (in which the city was made aware of the tiny homes and in which the city represented to Krsna and Govinda that they were not facing any enforcement actions), the city has just now reclassified their tiny homes as structures subject to the International Building Code. But the tiny homes are the same as they always were. And the definitions are too. The only change appears to have been in the form of enforcement personnel. This is problematic because it allows one person to take something that is fixed law—what the ordinance says—and reinterpret it to have a new meaning. But the meaning of a law cannot be said to shift depending on the person enforcing it. That is tyranny.

Along those lines, the city's reclassification and enforcement is an unlawful expansion of its authority. That is because the city's authority to enforce the state building code for structures is only applicable if tiny homes *are* structures. And they are not:

- City officials have previously acknowledged they are RVs;
- The Florida DMV has registered them as RVs; and
- They are built to RV code and may be inspected and approved by any company accredited by the American National Standards Institute;

In other words, Alachua's desire to reclassify these tiny homes as structures, and then ban them, exceeds the scope of its authority to enforce the building code. Announcing that something is a structure subject to the International Building Code does not suddenly make it so. Of course Alachua can enforce the building codes and regulate structures. What it cannot do, however, is wrongly misclassify something as a structure just to provide itself with legal cover to eject it from the neighborhood. Such conduct is *ultra vires*—an abuse of authority.

Finally, city officials seem to take the position that the tiny houses are health and safety risks (that must therefore be eliminated immediately). But there was no such concern during the two-year period where Krsna and Govinda routinely hosted friends and guests, without incident, on their way to earning Superhost status on Airbnb. Nor was that a concern of the Department of Business and Professional Regulation, who inspected the property and gave them a license. It was not an issue for any of the city officials who viewed the tiny houses, including at least one who approved a permit for the electrical connection to one of them. And it is utterly inconsistent with the tiny-house standards promulgated by numerous credentialing and accreditation institutions—the standards to which Krsna's and Govinda's houses are built.

In sum, Alachua is exercising authority it does not have to destroy a fledgling family business it previously allowed to operate and was on the verge of flourishing. I encourage you to reconsider this course of action. **Specifically, I request that you allow Krsna and Govinda to continue their tiny house business as they were before or, alternatively, to provide them with an additional 120 days to bring their property into compliance.** Krsna and Govinda represent everything that makes America special. They picked themselves up by the bootstraps, had the audacity to think big and start a business in the face of uncertainty, and they have added unquantifiable value to their community. Simply put, Krsna and Govinda are the American Dream. Alachua should rethink whether it wants to be known as the town that destroyed it.



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