

IN THE THIRTEENTH CIRCUIT COURT FOR THE STATE OF FLORIDA
CIRCUIT CIVIL DIVISION

JAMES SELLERS,
Petitioner,

Circuit Case No.: 23-CA-12184
Division: K

vs.

HILLSBOROUGH COUNTY
(Code Enforcement),
Respondent.

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This case is before the Court on Petitioner James Sellers's Petition for Writ of Mandamus filed April 28, 2023. Petitioner alleges that Respondent Hillsborough County Code Enforcement entered private property on three occasions to conduct an inspection of his property to determine his property's compliance with county codes. Petitioner does not contend that the property entered was his property, only that it was private property adjacent to or near his property. Petitioner seeks a writ directing that the County dismiss its case against him. For reasons explained below, the Court must deny the petition.

Mandamus is the recognized remedy to require a public official to discharge his or her duty. *Dante v. Ryan*, 979 So. 2d 1122, 1123 (Fla. 3d DCA 2008). Mandamus will lie only to enforce a clear legal right to performance of the requested act, however. *Fla. League of Cities v. Smith*, 607 So. 2d 397, 400-401 (Fla. 1992). Here, Petitioner contends, without evidence, that county staff illegally entered onto private property. Even if the property were private, Petitioner has not shown that the County's entry was not permitted by someone with authority to do so. Petitioner has a right to have his case determined by the code enforcement board or magistrate. *Town of Manalapan v Rechler*, 674 So. 2d 789, 790 (Fla. 4th DCA 1996) (mandamus is appropriate to compel performance of ministerial duties by public officers). Petitioner, is not, however, entitled to a *particular* determination, such as dismissal, because that determination involves the exercise of the board or magistrate's discretion. *Id.* (internal citations omitted). Moreover, Petitioner does not indicate that he has exhausted his administrative remedy before filing his petition. *Dante v. Ryan*, 979 So. 2d 1122, 1123 (Fla. 3d DCA 2008).

It is therefore ORDERED that the petition is DENIED on the date imprinted with the Judge's signature.

Electronically Conformed 5/2/2023
Caroline Tesche Arkin

Caroline Tesche Arkin, CIRCUIT JUDGE

Copy to:
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