

IN THE THIRTEENTH JUDICIAL CIRCUIT FOR THE STATE OF FLORIDA
GENERAL CIVIL DIVISION

DAVID L. KOCHÉ, as Trustee of the
310 BLANCA RESIDENTIAL TRUST
DATED MAY 19, 2014,

Petitioner,

CASE NO.: 24-CA-005328

vs.

DIVISION: K

CITY OF TAMPA, and
JOHN HUDGISON, in his official capacity
As the Chief Building Official for the City
of Tampa, Florida,

Respondents.

_____ /

ORDER DISMISSING COUNTS II AND III OF COMPLAINT AND
DIRECTING CLERK TO CHANGE CASE DESIGNATION

On December 27, 2024, Respondents filed a response to Counts II and III of Petitioner's Petitions for Writs of Certiorari and Mandamus. The response included motions to dismiss Counts I, II, and III. Having reviewed the petition(s), response, appendix, and relevant law, the court finds:

1. Motion to Dismiss Count I is DENIED.
2. Petitioner has failed to establish the Building Official's denial of his permit was a quasi-judicial decision under the standard set forth in *Bd. of Cnty. Comm'rs of Brevard Cnty. v. Snyder*, 627 So. 2d 469, 474 (Fla. 1993) (finding a municipal body's quasi-judicial decision is reviewable by petition for writ of certiorari and it is the character of the proceeding that determines whether the decision is quasi-judicial). While review of a quasi-judicial decision by petition for writ of certiorari in the circuit court is appropriate, the same is not true for other local government decisions. Motion to Dismiss Count II is GRANTED.
3. Petitioner cites City Code § 5-104.2 as the mandatory authority requiring the Building Official to issue a permit for Petitioner, but there is nothing in § 5-104.2 or the petition to support the conclusion Petitioner has a right to a building permit or the Building Official has a ministerial duty to issue one under the circumstances at hand. "A party petitioning for a writ of mandamus must establish a clear legal right to performance of the act requested, an indisputable legal duty, and no adequate remedy at law." *Radford v. Brock*, 914 So. 2d 1066, 1067 (Fla.

2d DCA 2005) (internal citations omitted). Motion to Dismiss Count III is GRANTED.

Counts II & III are DISMISSED. The Clerk is DIRECTED to change the designation of case 24-CA-005328 to a Complaint for Declaratory and Injunctive Relief.

ORDERED in Tampa, Florida, on the date imprinted with the Judge's signature.

24-CA-005328 6/23/2025 12:10:53 PM



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~~Judge Christine Marlewski~~
CHRISTINE A. MARLEWSKI, Circuit Court Judge

Copies to:
Petitioner

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