

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

MANHATTAN AVENUE, LLC,
Petitioner,

CASE NO.: 22-CA-7246

vs.

DIVISION: D

THE CITY OF TAMPA,
Respondent.

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

And

ORDER DIRECTING CLERK TO CLOSE CASE FILE

THIS MATTER is before the Court on Petitioner's August 26, 2022, Petition for Writ of Mandamus seeking this court to compel Respondent to respond in writing to Petitioner's March 3, 2022 demand letter sent pursuant to section 70.001(4)(a), Florida Statutes (the Bert Harris Act). In support of its petition, Petitioner attached Petitioner's initial February 7, 2022 letter to the City claiming damages, the City's February 28, 2022 response denying the claim set forth in the February 7, letter, and Petitioner's March 3, 2022 reply to the City's February 28, 2022 response claiming additional damages. Petitioner alleges that the City did not, but was required to, respond to the March 3rd letter. Because the City has responded to Petitioner's initial letter,¹ and because Chapter 70, Florida Statutes affords Petitioner a legal remedy, the petition must be denied.

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). But mandamus will lie only to enforce a clear legal right to performance of the requested act. *Fla. League of Cities v. Smith*, 607 So. 2d 397, 400-401 (Fla. 1992); *State, ex. Rel. Cortez v. Bentley*, 457 So. 2d 1072 (Fla. 2d DCA 1984). Mandamus does not lie unless Petitioner demonstrates that it has no other adequate legal remedy available. *Rucker v. Ruvin*, 748 So. 2d 376, 277 (Fla. 3d DCA 2000). Because Petitioner here has a remedy at law, it is

ORDERED that the petition is DENIED on the date imprinted with the Judge's signature. The Clerk is directed to close the court file.

Electronically Conformed 8/30/2022
Emily A. Peacock

EMILY PEACOCK, Circuit Judge

*Electronic copies provided through JAWS
to all registered parties.*

¹ The City's February 28, 2022 response appears to convey the position set forth in section 70.001(4)(c)11. *See also* section 70.001(5)(a) which states "[t]he failure of the governmental entity to issue a statement of allowable uses during the 90-day notice period shall be *deemed a denial* for purposes of allowing a property owner to file an action in the circuit court under this section." (Emphasis added.)