

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

James Brady, Individually and d/b/a JB & HM  
Enterprises, Inc,

Plaintiffs,

vs.

City of Myrtle Beach, State of South Carolina,  
David Sebok, Myrtle Beach Downtown  
Redevelopment Corporation and Metro  
Properties Group, LLC,

Defendants,

C.A. No. 4:17-cv-

**DEFENDANT CITY OF MYRTLE  
BEACH'S PETITION & NOTICE  
OF REMOVAL**

TO: PLAINTIFFS and their Attorneys THE BRITAIN LAW FIRM, PA.

YOU ARE HEREBY NOTIFIED that Defendants, by and through their undersigned attorneys, hereby petition for and give Notice of Removal of the above entitled action filed in the Court of Common Pleas for Horry County, Civil Action No. 2017-CP-26-00685, to the United States District Court, District of South Carolina, Florence Division.

The above-entitled action was commenced by service of a Summons and Complaint on or about January 9, 2019, in Horry County, South Carolina. Therefore, this notice is filed in this court within 30 days of receipt of the Complaint by Defendant City of Myrtle Beach.

This is a civil action which contains causes of action alleging violations of the U.S. Constitution and arises under 42 USCA § 1983, and therefore, because this civil action raises federal questions, this Court has original jurisdiction under the provisions of 28 U.S.C. §§ 1331 and 1332.

This Defendant files herewith a copy of all process, pleadings, and orders in their receipt concerning this action and certify that the Plaintiffs have been served with the notice of removal.

Respectfully submitted,

s/ Michael W. Battle

Michael W. Battle, Fed ID 1243

BATTLE LAW FIRM, P.A.

Attorney for Defendant

City of Myrtle Beach

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January 11, 2019

*John Peterson*

*1/9/2019 4:20 PM*

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STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
 COUNTY OF HORRY ) FIFTEENTH JUDICIAL CIRCUIT  
 )  
 James Brady, Individually and d/b/a JB&HM ) C/A No.  
 Enterprises, Inc, )  
 Plaintiffs, )  
 )  
 vs. ) **AMENDED SUMMONS**  
 ) **(Jury Trial Demanded)**  
 )  
 City of Myrtle Beach, State of South Carolina, )  
 David Sebok, Myrtle Beach Downtown )  
 Redevelopment Corporation and Metro )  
 Properties Group, LLC, )  
 )  
 Defendant. )

**TO: THE DEFENDANTS ABOVE-NAMED:**

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the Plaintiffs' attorney, Thomas C. Brittain, at The Brittain Law Firm, P.A., 4614 Oleander Drive, Myrtle Beach, South Carolina 29577, within thirty (30) days after the service hereof, exclusive of the date of such service and if you fail to answer the Complaint within the time aforesaid, the Plaintiffs in this action will apply to the Court for the relief demanded in the Complaint.

Dated at Myrtle Beach, South Carolina on the 28th day of December 2018.

THE BRITTAIN LAW FIRM, P.A.

s/Thomas C. Brittain  
 Thomas C. Brittain, Esq. (SC Bar #893)  
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 Attorneys for the Plaintiffs

Myrtle Beach, South Carolina  
December 28, 2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HORRY	)	FIFTEENTH JUDICIAL CIRCUIT
	)	
James Brady, Individually and d/b/a JB&HM	)	C/A No.
Enterprises, Inc,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	<b>AMENDED COMPLAINT</b>
	)	(Jury Trial Demanded)
City of Myrtle Beach, State of South Carolina,	)	
David Sebok, Myrtle Beach Downtown	)	
Redevelopment Corporation and Metro	)	
Properties Group, LLC,	)	
	)	
Defendant.	)	

NOW COMES the Plaintiffs, by and through their undersigned attorney, Thomas C. Brittain, hereby complaining of the Defendant, and would allege and show unto this Court as follows:

1. That Plaintiff James Brady (hereinafter referred to as "Plaintiff Brady") at all times relevant herein was a citizen and resident of the State of South Carolina, County of Georgetown.

2. That Plaintiff Brady owns and operates an establishment known as JB&HM Enterprises, Inc. (hereinafter referred to as "Plaintiff Business") located in Myrtle Beach, South Carolina and does so within the confines of the law.

3. That Defendant City of Myrtle Beach, State of South Carolina (hereinafter referred to as "Defendant City") at all times relevant herein was a governmental entity, operated as a political subdivision of the State of South Carolina, with its principal place of business in the City of Myrtle Beach, County of Horry.

4. That Defendant David Sebok (hereinafter referred to as "Defendant Sebok"), upon information and belief, at all times relevant herein was a citizen and resident of the State of South Carolina, County of Horry.

5. That Defendant Myrtle Beach Downtown Redevelopment Corporation (hereinafter referred to as "Defendant Redevelopment Corp.") at all times relevant herein was a corporation organized and existing under the laws of the State of South Carolina and operating and transacting business in the County of Horry, State of South Carolina.

6. Upon information and belief, at all relevant times mentioned herein, Defendant Sebok was the Executive Director of Defendant Redevelopment Corp. and, as such, Defendant Redevelopment Corp. is vicariously liable for the actions of Defendant Sebok.

7. That Defendant Metro Properties Group, LLC (hereinafter referred to as "Defendant Metro Properties") at all times relevant herein was a corporation organized and existing under the laws of the State of South Carolina and operating and transacting business in the County of Horry, State of South Carolina.

8. That, upon information and belief, all pertinent and relevant acts that resulted in this action occurred in Horry County, South Carolina.

9. Both Jurisdiction and Venue are proper and appropriate in this Horry County Court of Common Pleas.

10. That the two properties in question, 803 and 805 Main Street, Myrtle Beach, SC 29577; containing Tax Map Numbers 1810707005 and 1810616003, are owned by Plaintiff Brady and are located in an area known as the Superblock.

11. Further, that the properties referred to above were vacant, abandoned, full of homeless individuals being used as a place to exchange drugs with issues concerning the building of fires inside the buildings to keep warm and use them as sleeping quarters, with no nuisance claims made to any responsible parties.

12. Defendant City knew it was a dangerous hazard to the public and surrounding properties creating a significant concern for the public welfare based on these illegal and improper uses.

13. Prior to being purchased by Plaintiff Brady, the buildings were operated by C&C Moving Store, a furniture store, a wig shop, and a check cashing store there for many many years.

14. These buildings were eventually abandoned after one of the owners went into receivership for several years and were left in such a condition with complete disregard for public safety, health and welfare by Defendant City until they were purchased in 2010 by Plaintiff Brady.

15. A few months after the purchase of these properties by Plaintiff Brady, Defendant Business was established in that location.

16. On May 16, 2010, Plaintiffs entered into an agreement with business associate, Mr. Hector Melendez, to be director and supervisor of the remodel of the two properties located at 803 and 805 Main Street, Myrtle Beach, SC.

17. That Plaintiffs and Mr. Melendez were excited for the City to upgrade the super block and cared enough to take control of other (nuisance properties), serve the community, and improve public safety in the area.

18. Further, that thereafter Mr. Melendez met with Defendant City officers and had a meeting with zoning and building to get the papers to start the process.

19. Inexplicably, directly from the start, Mr. Melendez was told to meet with the zoning director Bruce where his first response was "we will do everything possible to never let you open a bar at that location". Mr. Melendez was stunned after going over with a good attitude and excitement to try to get the business opened with Defendant City's agreement and participation.

20. Mr. Melendez had plans drawing up with local architects for construction to begin and completion in a reasonable time.

21. After review from Defendant City officials, the harassment became weekly, almost daily, to hinder the construction and completion of the two properties including, but not limited to, an agreement of their own directive just for the next guy Chris to come back the next day and say it's not that way. After approving several blueprints, the next inspection time Eddie would come over to make him rip out what was just approved and redo it again, laughing as they exited the building; doing whatever they could to frustrate the process for the owner with their power as Defendant City officials, trying first to force Mr. Melendez to open an Art Gallery.

22. Further, after over a year and a half of total reconstruction, attention to the requests of Defendant City officials, reconstruction of the properties including new plumbing, new electric, all new flooring, etc. when everything was completed Mr. Melendez called for a final inspection. Bruce and Eddie showed up from Defendant City smiling and told Mr. Melendez "we said you would never open as a nightclub here and now you have to put fire sprinklers everywhere in this building if you want to get a business license" for a nightclub/restaurant.

23. Mr. Melendez contacted Plaintiff Brady about this issue who authorized him to contact Myrtle Beach Fire and Safety to get a quote. Sprinklers were installed at an extra expense of approximately \$68,000.00. Myrtle Beach Fire and Safety corroborated that in over 75 years of all kinds of businesses in the downtown area these properties were the first to be required to have a fire sprinkler system.

24. Subsequently in or around 2015 the next largest parcel of property in that same block owned by the former Mayor of Surfside Beach opened the Myrtle Beach Bingo right in the Superblock without conditions applied to the Plaintiffs; no fire sprinklers, few, if any, construction

costs to him and beneficial treatment on all fees and requirements and zoning for a bingo establishment. He opened in a few months; the building was over 10,000 square feet.

25. The former Mayor had no problems opening, stayed in business for several months before Defendant City reportedly purchased his property for \$800,000.00 in 2015, all knowing that they were no going now to make way for the Library and Children's Museum and drive out the bars and nightclubs.

26. Defendants conspired and planned harassment, intimidation, police abuse and public smear campaign, all of which began in 2016 (including but not limited to Council members).

27. After the fire sprinkler installation was completed and Defendant City was left with no option but to let it open, the first lease for two years only (June 30, 2012-June 30, 2014) was executed successfully.

28. At that time, Defendant City was zoned for bars and nightclubs in the Superblock area and typical issues arose as in any similarly zoned areas (hyper crime levels were noted at Broadway, Market Common, Sky Wheel, Boulevard, etc.). Defendants had no current interest in acquisition, so no nuisance claims were made.

29. On July 1, 2014, a new lease was signed between Pure Ultra Club, Hector Melendez as tenant and Plaintiffs as landlord for twenty years, ending on June 30, 2034.

30. On October 29, 2015, Philip David Guderyoun was charged with murder at a bar located in Broadway at the Beach. No nuisance occurred, and no words were spoken at any Defendant City Council meetings, even when asked to answer. Ironically however, Defendant City took actions on the Superblock with business license moratorium and a city nuisance order against that area. Mr. Melendez is on the record December 5, 2015 with Myrtle Beach Online confirming that Defendant City is pushing his nightclub out. Even when other

bars/restaurants/nightclubs in Myrtle Beach with more issues were able to operate as usual. No nuisance charges and many are still in operation today.

31. By this time, total investment by Plaintiffs to upfit for the bar nightclub was in excess of \$400,000.00.

32. Further, there were charity events, great people, groups, theater of republic events, singers, karaoke, game nights, birthday parties, concerts, CCU events, etc. Mr. Melendez was showing his character as a very professional, kind and hard-working man; not the picture Defendant City wanted to portray of him or the club; double standards were applied to *Plaintiffs*.

33. On May 25, 2014, CBS News covered a shooting in Myrtle Beach that left 3 people dead, two wounded. The hotel where that shooting occurred is still open. The real problem is in the areas, including five points and the Boulevard, where year after year violent incidents bring crime to the surrounding businesses. One of these hotels, Bermuda Sands, was never shut down. This is just one of many shootings in these areas over many years of operation, including many others not set forth herein but all dealt with differently than Plaintiffs issues which were few and nowhere near as significant. Many are still in operation today.

34. On December 5, 2015, an article was published discussing Mr. Melendez's frustrations over police harassment, intimidation, scare tactics, to drive away business and law-abiding customers, targeting their establishments, and the police department not policing the criminals around the area and getting them off the streets so they can feel safe in their own businesses. Further, all claims made by the city of public assistance calls. That the City may claims came from Pure, were in fact fabricated by them and not Mr. Melendez. That Mr. Melendez in fact has never had to call the police since he opened in August 2014.

35. That this was done by Defendants and their agents to create a situation where they could argue nuisance and keep the Plaintiffs from operating in an effort to purchase their business or eliminate the business for reasons satisfactory to themselves, including violation of Section 1983 United States Code of Laws, civil conspiracy, etc.

36. Further, Plaintiff Brady provided a complete crime analysis report to Defendant City evidencing that the crime rate was lower in the Superblock than in many other areas of the City. Defendant City attorney, Tom Ellenburg is on record stating to Plaintiff Brady and attorney William Paul Young that Plaintiffs' establishment was grandfathered in and no actions would be taken against Pure Ultra Club or the property with new zoning or overlays.

37. In September 2015 a bar, The Chemist, was singled out and allowed to open (right on 9<sup>th</sup> Avenue just down the block from the old establishment, Levelz Bar, that the City claimed was a nuisance and in fact shut them down for their own agenda) even after Defendant City passed a zoning ordinance and overlays making it illegal to do so, thereby knowingly violating their own ordinances. The owner of The Chemist was present at a work shop Plaintiff Brady attended where he questioned Defendant City officials on why they were breaking their own laws. They railroaded Plaintiff Brady, never answered his question and were shocked he knew but asked him to sit down. The Chemist owner was also granted a permit for easement for outdoor seating at his establishment. This owner was connected to the Defendant Redevelopment Corp.'s Executive Director Defendant Sebok in some way. Natalie's Bar and Grill, the other target of Defendant City's acquisition plan on closing and buying these properties is also corroborating the same facts as trying to push out her business.

38. On February 1, 2016 Plaintiffs received a letter from tenant, Hector Melendez, about intimidation from Defendant City and retaliations.

39. On May 1, 2016 Plaintiffs received another letter from tenant Mr. Melendez complaining of harassment by Defendant City including the police, the Mayor and officials.

40. On August 1, 2016 Plaintiffs received a letter from tenant Melendez complaining of police intimidation by Defendant City.

41. In or around September or October 2016, Defendant Sebok approached Mr. Melendez and pressured him as to who was the owner of the property. Defendant Sebok then told Mr. Melendez he or the owner was going to start receiving offers to buy their building. In direct terms he stated, "if you do not sell your property it will be closed anyway or taken away by other means." Mr. Melendez tried to explain to him he was not the owner but had a long lease. Defendant Sebok seemed surprised and said that is easy to break and take care of if need be. He told Mr. Melendez to talk to the owner and let him know this can be done peacefully or we can shut you down. Plaintiff Brady was notified by Mr. Melendez immediately; this constitutes extortion and violation of Constitutional rights of Plaintiffs.

42. That, shortly thereafter, on October 13, 2016, Defendant Metro Properties solicited to purchase the property at 803 Main Street. The letter was sent to the tenant, Mr. Melendez, who then forwarded to Plaintiffs. Therefore, Defendant Metro Properties is named as a Defendant in part and parcel of conspiracy associated with the other Defendants' conduct.

43. On October 29, 2016, Mr. Melendez contacted Plaintiff Brady saying he was not feeling well from the daily stress of the Defendant City's unrelenting harassment, scare tactics, police intimidation, etc. and he was going to the hospital. Plaintiff was in town to attend Mr. Melendez's Halloween event at his club and Mr. Melendez asked if he could go to his home to pick up accoutrements for that event and drop off to his employees. When Plaintiff Brady arrived at the club he was stunned by the police presence; there were approximately 5-7 police with arms

folded in front of the club. They were intimidating the customers, asking them if they were going to behave, commenting on their dress, asking where they were from, etc. Plaintiff Brady approached the lead officer and asked for his name, card, ID; he refused to identify himself. Plaintiff Brady then asked what right the police had to harass these patrons and run off his tenants and why were the police not protecting the business owners' rights from known criminals and the thousands of good customers who visit the Superblock? The officer then got into the face of Plaintiff Brady and screamed "who are you"? Plaintiff Brady responded that he was the owner of the property and that the police had been harassing that area and his tenant for months and then asked if they were going to arrest people for lining up and having fun at a Halloween party. After that the police left. Later that night, Mr. Melendez, due to constant harassment by Defendant City officials, suffered an emergency at Grand Strand Regional Medical Center.

44. On January 10, 2017, ABC news confirmed bars forced to shut down.

45. On December 5, 2015, the news indicated Superblock bar owners targeted.

46. On December 7, 2016, Myrtle Beach online confirmed Superblock bars shut down.

47. On December 18, 2016, WMBF news reported police investigated shots at Broadway at the Beach.

48. On July 7, 2017, ABL revoked the liquor license for Pure Ultra Club.

49. On October 13, 2017, news reported man sentenced for deadly 2015 assault at Broadway at the Beach incident which is just one example in Myrtle Beach of shootings in area including, but not limited to, malls, restaurants, banks, convenience stores, schools, and not shut down using nuisance claims against them,

50. In October 2017, Plaintiff Brady signed a listing agreement with Coldwell Banker, Gary Roberts, to list the two properties for lease or sale. Since that time Plaintiff Brady has had

many discussions with Mr. Roberts about conversations he has had directly with the current Mayor's husband Brown Bethune stating Defendant City has put a cloud and stigma on that property and that no one is going to buy now since no alcohol is allowed at this particular property.

51. On October 15, 2018 Plaintiffs entered into a new lease with tenants Sawn Lowe and Joseph Lowe who planned to open a game business, i.e. a family friendly virtual reality experience, consistent with Defendant City's overall business use strategy for the Superblock, including the sale of beer and wine and prepackaged light food.

52. Defendant City came and indicated that nothing would be allowed regardless of the nature of the business and knowingly keeping Plaintiffs properties off market for their own agenda.

53. As a result, Plaintiffs' contract with their new tenants was cancelled.

**AS A FIRST CAUSE OF ACTION**

(Tortious Interference of Contract and Action under United States code, Section 1983)

54. That Plaintiffs reallege each and every allegation set forth above as if set forth herein verbatim.

55. That the operation of Plaintiffs was within accordance with the law.

56. That had there been any issues of drug violations, fighting and public intoxications, all of them were dealt with properly and in accordance with the law.

57. That it is a policy of Defendant City to "close bars" based on any misconduct that is associated therein, even if it is not occurring within or on the premises.

58. Further, that Plaintiffs were in no way responsible or had anything to do with any illegal activities that took place in proximity to their location.

59. That Defendant City inaccurately tried to portray Plaintiff Business as a public nuisance.

60. Further, that Defendant City officials, including police, routinely harassed and intimidated Plaintiffs' tenant Mr. Melendez in an effort to make him shut down Pure Ultra Club and, eventually, were successful in doing so.

61. That the negligent harassment and misrepresentations by Defendant City were of a significant nature and were done with an intent to injure and eventually terminate the business relationship between Plaintiffs and their tenant.

62. That through constant harassment and exchange of, in many ways, false information, the contract between the Plaintiffs and tenant was terminated in early fashion *all to* the great cost and expense of the Plaintiffs.

63. Further, that Plaintiffs then entered into a contract with new tenants and, once again, Defendant City interfered so as to ensure the tenant did not receive the required licensing and would therefore be unable to open, keeping properties off market intentionally for their own agenda.

64. As a direct result of these actions, Plaintiffs had to terminate the contract with the new tenants just days after entering into the contract, all to the great cost and expense of the Plaintiffs.

65. This constitutes the act of tortious interference with a contract.

66. Further, based on the harassment and tortious interference as set forth above Plaintiffs' leases with two different tenants were terminated causing Plaintiffs to suffer the loss of years of rental income. In addition, Plaintiffs had to refund to the most recent tenants their initial deposit.

67. That all of this was done in violation of the South Carolina Tort Claims Act in that the Defendant City, through its officers and representatives, harassed and intimidated Plaintiffs'

tenants for the purpose of making them close their businesses and break their contracts with Plaintiffs.

68. Further, that this was a constitutional right of property which was lost.

69. That there are significant damages based on the termination of these contracts and untimely fashion.

70. That all of it was done in violation of the law and rules.

71. That the Plaintiffs were denied equal protection under the law among other constitutional rights.

**AS A SECOND CAUSE OF ACTION**

(Violation of Section 1983 United States Code of Law)

72. That Plaintiffs reallege each and every allegation set forth above as if set forth herein verbatim.

73. That the misrepresentations, interference with the contractual relationship between Plaintiffs and their tenants deprived these Plaintiffs of their propriety rights to operate a business within the confines of Myrtle Beach, Horry County and the State of South Carolina.

74. Further, that the misrepresentations and interference by Defendant City has made it difficult for Plaintiffs to sell the properties in accordance with the law.

75. Further, that the right of property is a special right contained in the first ten amendments of the United States Constitution and any police or state action which impinges, hinders or terminates those rights, would require the State or the political subdivision to compensate the injured party for the sacrifice and or termination of those rights.

**AS A THIRD CAUSE OF ACTION**

(Breach of Contract)

76. That Plaintiffs reallege each and every allegation set forth above as if set forth herein verbatim.

77. That Plaintiffs entered into a legally binding contract with Hector Melendez on July 1, 2014 to lease the property located at 803 Main Street, Myrtle Beach, SC for twenty (20) years.

78. That both Plaintiffs and the tenant complied with all of the terms of their lease.

79. That, after years of continual harassment and intimidation by Defendant City officials, the tenant's business license was revoked causing him to close down and break his long-term lease with Plaintiffs.

80. That Plaintiffs then entered into a lease with new tenants on October 15, 2018, however, that lease was broken shortly thereafter due to harassment and intimidation by Defendant City officials including, but not limited to, encouraging the tenants to take their business elsewhere and denying their business license.

81. That Plaintiffs have suffered significant damages based on the premature termination of these leases.

**AS A FOURTH CAUSE OF ACTION**  
(Civil Conspiracy)

82. That Plaintiffs reallege each and every allegation set forth above as if set forth herein verbatim.

83. That all Defendants combined and conspired to deprive Plaintiffs of their Constitutional rights.

84. That as a direct and proximate result of the conspiracy Plaintiffs suffered injuries and are entitled to recover damages, including but not limited to, special damages and such other and further relief as the Court deems just and proper.

85. Upon information and belief, Defendants' misconduct was willful, wanton or with such reckless disregard for and conscious indifference to the interests and rights of Plaintiffs and, therefore, Plaintiffs are entitled to recover punitive damages in addition to its economic damages.

**WHEREFORE**, Plaintiffs, having complained of the Defendant, pray to this Honorable Court that Plaintiffs be awarded all actual, consequential and special damages as described herein as well as punitive damages and any further relief this Court deems just and proper.

THE BRITTAIN LAW FIRM, P.A.

s/Thomas C. Brittain  
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