

IN THE CIRCUIT COURT, FIFTH
JUDICIAL CIRCUIT, IN AND FOR
LAKE COUNTY, FLORIDA

CASE NO. 2012-CA-001001

FLORIDA CARRY, INC., a Florida Not
For Profit Corporation,
Plaintiff,

vs.

CITY OF LEESBURG, FLORIDA, a
political subdivision of the State of Florida,
and JAY EVANS, City Manager of the City
of Leesburg, Florida,
Defendant.

AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

STATE OF FLORIDA
COUNTY OF VOLUSIA

BEFORE ME, the undersigned Notary Public, personally appeared Sean Caranna, who
after being duly sworn, deposed and stated as follows:

1. I am the Executive Director of Florida Carry, Inc.
2. I am further the custodian of records of Florida Carry and responsible for the day
to day record keeping of the organization.
3. All information herein is based upon my personal knowledge.
4. In late 2011 a member of Florida Carry contacted the organization to complain
that the City of Leesburg, Florida was continuing to promulgate an illegal ordinance.

5. On or about 15 December 2011, I reviewed the publicly available code of ordinances promulgated by the City of Leesburg, Florida through the services of the Municipal Code Corporation (Municode).

6. Municode publishes the complete ordinances of the City of Leesburg.

7. Ordinance No. 87-13 of the Leesburg Code provides at Section LXXIII, that “[t]he codification and renumbering of each or parts of each ordinance of the Code by the Municipal Code Corporation is hereby authorized and ratified.”

8. Upon review of these ordinances I discovered that despite the enactment of Sec. 790.33, Fla. Stat., the City of Leesburg continued to promulgate Sec. 15-3 of the Leesburg code which purported to ban the discharge of firearms in the city limits of Leesburg.

9. An email was sent on behalf of Florida Carry to Defendant City of Leesburg, in care of its City Manager, Defendant Jay Evans. (Exhibit A).

10. Mr. Evans responded and acknowledged the existence of Sec. 790.33, Fla. Stat., but refused to cease promulgation of the illegal ordinance. (Exhibit A).

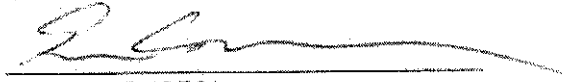
11. Mr. Evans claimed that no prohibited act had occurred since the effective date of Sec. 790.33, even though the City continued to promulgate the illegal ordinance until after the filing of a lawsuit by Florida Carry.

12. On or about 14 March 2012 I again reviewed the ordinances of Leesburg prior to filing of this action and confirmed that Leesburg was continuing to promulgate the illegal ordinance.

13. Florida Carry, Inc. has been required to expend its resources to investigate the member’s complaint and in bringing this action.

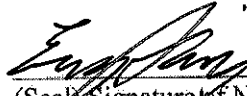
14. Florida Carry, Inc. has paid or become obligated to pay Court costs and attorneys fees in bringing this action.

FURTHER Affiant sayeth not.


SEAN CARANNA

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was Sworn to (or affirmed) and subscribed before me this 27th day of December 2014, by Sean Caranna .


(Seal) Signature of Notary Public
Eric J. Friday
Personally known:
OR Produced Identification: _____
Type of Identification Produced: _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished this 30th day of December, 2014, by eService, to the following:

Fred Morrison
dredm@mclinburnsed.com
Fax 352-326-2108

/s/ Eric J. Friday
Eric J. Friday, Esq.
Florida Bar No.: 797901
FLETCHER & PHILLIPS
541 E. Monroe
Suite 1
Jacksonville, Florida 32202
(904) 353-7733 Phone
(904) 353-8255 Fax
familylaw@fletcherandphillips.com
efriday@fletcherandphillips.com



ERIC J. FRIDAY
MY COMMISSION # FF 094162
EXPIRES: March 24, 2018
Bonded Thru Budget Notary Services

Firearm regulation in the City of Leesburg

Sean Caranna <sean@floridacarry.org>

From: Jay Evans
[mailto:Jay.Evans@leesburgflorida.gov] Sent:
Thursday, December 15, 2011 4:40 PM
To: 'rich@floridacarry.org'
Subject: Firearm regulation in the City of Leesburg Mr.

Nascak:

Let's not get over-zealous with the rhetoric. The City of Leesburg is well aware of FS 790.33. You will note the statute says specifically that local governments are prohibited from "enacting, enforcing, or promulgating ordinances which regulate firearms and ammunition...". None of these things has occurred since October 1, 2011. There is no requirement that we repeal said laws, as you seem to indicate is necessary. Any action taken in the future regarding the existence of these laws in our Code of Ordinances will be done at the discretion, pleasure, and timing of the Leesburg City Commission.

Sincerely,

Jay M. Evans City Manager
City of Leesburg, Florida
P (352) 728-9704 / F (352) 728-9706
<<http://www.leesburgflorida.gov/>>
www.leesburgflorida.gov bird logo png file
-----Original Message-----

From: <mailto:rich@floridacarry.org> rich@floridacarry.org [
<mailto:rich@floridacarry.org>
mailto:rich@floridacarry.org] Sent: Thursday,
December 15, 2011 12:27 PM

To: City Manager
Subject: Website Contact Form Submission Name: Richard Nascak Email:<mailto:rich@floridacarry.org>
rich@floridacarry.org Comments:
Reference:<<http://laws.flrules.org/2011/109>> <http://laws.flrules.org/2011/109>

Dear Mr. Evans,

Please forward this e-mail to the City Council and/or City Attorney as applicable.

2011 House Bill 45 was engrossed under Chapter 2011-109, Laws of Florida and became effective on October 1, 2011. This law prohibits local governments from enacting, enforcing, or promulgating ordinances which regulate firearms and ammunition, and authorizes considerable penalties for violations thereof.

The City of Leesburg Code of Ordinances contains the following:

Sec. 15-3. - Discharging firearms in city.

It shall be unlawful for any person to discharge any firearms within the corporate limits of the city except for the protection of person or property, unless authorized or permitted so to do by the chief of police. It shall be unlawful for any person to fire or discharge any air gun, which, for the purpose of this Code, is defined as any gun, rifle or pistol which is designed to expel a projectile by the action of compressed air or gas, or by the action of a spring or elastic, within the

corporate limits of the city; provided, that such an air gun, rifle or pistol may be fired or discharged on any private grounds or residence under circumstances such that persons and property will not be endangered and also in such a manner as to prevent the projectile from traversing any grounds or space outside the limits of such grounds or residence and further provided that such air gun, pistols or rifle may be fired or discharged on a target range which has been approved by the chief of police of the city.

Florida Carry, Inc. interprets this ordinance to be in violation of s. 790.33 Florida Statutes and respectfully demands immediate action on the part of the City of Leesburg to comply with state law. As a Florida registered non-profit organization representing firearms owners and carriers throughout the state, Florida Carry has statutory standing to initiate legal action on behalf of our membership with regards to this issue.

We expect to receive a prompt reply to this communication. Please include any action intended or taken by the city to come into compliance with statute. Failure to respond will be interpreted as willful intent to circumvent the law, and we reserve the option to pursue the matter in court.

Sincerely,
Richard A. Nascak Co-Executive Director Florida Carry, Inc.
<<http://www.floridacarry.org>> www.floridacarry.org IP Address: 172.22.1.11

Please Note: Florida has a very broad public records law. Most written communications to or from government officials regarding government business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.

Think before you print.

NOTE: This e-mail is from a law firm, McLin Burnsed ("McLin"), and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of McLin, do not construe anything in this e-mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to McLin in reply that you expect it to hold in confidence. If you properly received this email as a client, co-counsel or retained expert of McLin, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.

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