

UNITED STATES DISTRICT COURT**Southern District of Florida**

Case Number: 08-CV-60577-MARA-JOHNSON

MIKE SQUILLACE, individually
and ALL TERRAIN LANDSCAPING,
INC., a Florida corporation,

Plaintiff,

**AMENDED COMPLAINT FOR
INJUNCTIVE RELIEF AND DAMAGES**

vs.

CITY OF PARKLAND, a Florida
Municipality, MICHAEL UDINE,
JARED E. MOSKOWITZ, DAVE
ROSENOF, JAY D. SMITH, MARK
WEISSMAN, as City Commissioners
of the City of Parkland,

Defendants.

The Plaintiffs, MIKE SQUILLACE and ALL TERRAIN LANDSCAPING, INC.,
a Florida corporation, sues Defendants, CITY OF PARKLAND, and alleges:

1. This is an action for injunctive relief AND DAMAGES IN EXCESS
OF \$50,000.00.
2. The corporate Plaintiff is a Florida corporation doing business
in the City of Parkland performing lawn maintenance service. The Plaintiff,
MIKE SQUILLACE, is a resident of the City of Parkland and is the owner and
operator of ALL TERRAIN LANDSCAPING, INC.
3. The Defendant, CITY OF PARKLAND, is a municipality where
the Plaintiffs have operated their business.

4. This action is brought under 42 United States Code Section 1983.

COUNT I
DENIAL OF EQUAL PROTECTION UNDER THE LAW AND REQUEST FOR
INJUNCTIVE RELIEF

5. That on or about November 2006, the Defendant enacted certain ordinance(s) Ordinance 2006-25 designed to prohibit residents who reside in an area of the City known as the Ranches from operating lawn maintenance businesses from their residence, copy of Ordinance attached.

6. That MIKE SQUILLACE, a resident of the Ranches, has been operating a lawn maintenance service from his residence through his corporation ALL TERRAIN LANDSCAPING, INC. since 1984.

7. That at no time prior to the enactment of Ordinance 2006-25 did the Defendant seek to prohibit Plaintiffs' lawn maintenance service or cite any violation for operation of said business.

8. That in January 2007, the City of Parkland advised Plaintiffs that their lawn maintenance service business must cease and desist or face being cited on a continuing basis for code violations including, but not limited to, Ordinance 2006-25.

9. That as a result of the actions of the City of Parkland, Plaintiffs have had to cease their lawn maintenance service business at substantial loss of profit.

10. That in fact the City of Parkland has singled out Plaintiffs for code enforcement while allowing approximately nine (9) other similar lawn maintenance service companies of which the City was aware to continue to operate either by not citing them for violations, by making agreements to defer enforcement and/or waiving any penalty for previous violations.

11. That the above selective enforcement of these ordinances are based on an unjustifiable and arbitrary classification to wit: Plaintiffs and others who have had litigation or serious disputes with the City of Parkland.

12. That the actions of the City of Parkland constitute a denial of Plaintiffs' right to equal protection under the law and are in violation of 42 U.S.C. 1983.

13. That the City of Parkland has deliberately, unjustifiably and arbitrarily placed Plaintiffs in a distinct class of lawn maintenance service companies as retaliation for Plaintiffs' assistance in a criminal investigation concerning officials and employees of the Defendant, as well as Plaintiffs' strong opposition to Defendant's effort to restrict agriculture operation within the city limits of Parkland.

14. That Plaintiffs have no remedy of law and request injunctive relief both pendant lite and permanent prohibiting the Defendant from the actions described above in the Complaint.

15. That Plaintiffs will suffer irreparable harm if the injunctive relief is not granted in that Defendant's actions deny Plaintiffs the legal use of their property and diminish the value of their property which cannot be adequately compensated by monetary damages.

16. The granting of injunctive relief will not cause undue injury to Defendant and is not adverse to the public interest in that Plaintiffs are only seeking to be treated as all other equally situated residences of the City of Parkland.

17. That Plaintiffs have no adequate administrative relief without exposing themselves to substantial civil penalties.

18. The action of the City is part of an ongoing City policy to cause injury to Plaintiffs property interests and has been sanctioned by the City Manager, Mayor and other city Commissioners who are the Defendant's policy makers with ultimate authority in this subject area of government business.

COUNT II
DAMAGES

19. That Plaintiffs reiterate paragraphs 1 through 18 above and incorporate same herein.

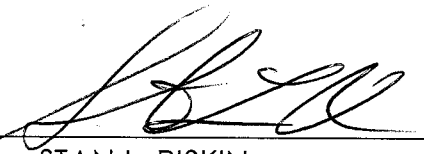
20. That as a direct result of Defendant's action, Plaintiffs have been made to suffer damages in excess of \$50,000.00 loss of profit for the inability to operate the lawn maintenance business as set forth above.

WHEREFORE Plaintiffs pray for temporary and permanent injunctive relief and a monetary award in excess of \$50,000.00.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed via U.S. Mail to J. FRANK BEAUCHAMP, III, ESQUIRE, Attorney for Defendant, 3335 n. w. Boca Raton Blvd., Boca Raton, Florida 33431 this 23rd day of June, 2008.

STAN L. RISKIN, P.A.
Attorney for Plaintiffs
8000 Peters Road, Suite A-200
Plantation, Florida 33324
Tel: 954-473-2200
Fax: 954-915-8900

By: 
STAN L. RISKIN
Florida Bar No. 129106

ORDINANCE NO. 2006-25

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PARKLAND, FLORIDA AMENDING THE CODE OF ORDINANCES REGARDING THE PARKING OF COMMERCIAL VEHICLES; AMENDING SECTION 9-2 "DEFINITIONS" OF ARTICLE I "IN GENERAL" OF CHAPTER 9 "LANDSCAPING AND VEGETATION"; AMENDING SECTION 11-81 "DEFINITIONS" OF ARTICLE VIII "IDENTIFICATION OF COMMERCIAL VEHICLES" OF CHAPTER 11 "OFFENSES AND MISCELLANEOUS PROVISIONS"; AMENDING SECTION 13-162 "DEFINITIONS" OF ARTICLE VIII "COMMERCIAL PROPERTY MAINTENANCE STANDARDS," CHAPTER 13 "PLANNING AND DEVELOPMENT"; AMENDING SECTIONS 22-4 "DEFINITIONS" AND 22-137 "PARKING OF COMMERCIAL VEHICLES" OF ARTICLE VI "OFF-STREET PARKING" OF CHAPTER 22 "ZONING" OF THE CODE OF ORDINANCES; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission recognizes that the parking of commercial vehicles on residential parcels creates traffic impacts and may negatively affect the appearance of residential property; and

WHEREAS, the City Commission seeks to adopt definitions of "commercial vehicle" and "heavy commercial vehicle" as the basis for reasonable commercial vehicle parking regulations of parking of commercial vehicles throughout the City.

WHEREAS, the City Commission desires to adopt reasonable commercial vehicle parking regulations in order to promote an orderly and aesthetically appealing appearance throughout the residential zoning districts of the City; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PARKLAND, FLORIDA, THAT:

SECTION 1. Section 9-2 of the Code of Ordinances is hereby amended to state as follows:

Sec. 9-2. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

~~**Commercial vehicle.** Any vehicle designed, used or maintained primarily for the transportation of property and/or persons for hire, including but not limited to tractor-trailers, wreckers, construction equipment or any vehicle whose gross vehicle weight exceeds ten thousand (10,000) pounds or any vehicle which contains advertising markings in excess of~~

three (3) square feet per side or vehicle top.

* * *

SECTION 2. Section 11-81 of the Code of Ordinances is hereby amended to state as follows:

Section 11-81. Definitions. For the purposes of this article, the following words have the meanings indicated:

* * *

~~Commercial vehicle: Any vehicle not owned or operated by a government entity which operates on any public highway for the purpose of transporting persons or property for compensation, whether empty or loaded. Any vehicle which is used primarily for non-personal business activities. Outside lettering or logos on any such vehicle designating a business of any kind shall be one, but not the only, method of establishing its commercial status. The following types of vehicles shall be considered commercial for purposes of this section:~~

- ~~a. Truck cab;~~
- ~~b. Semitrailer;~~
- ~~c. Tractor crane;~~
- ~~d. Power shovel;~~
- ~~e. Well driller;~~
- ~~f. Bus;~~
- ~~g. Taxi, limousine and other vehicles for hire;~~
- ~~h. Ambulance;~~
- ~~i. Wrecker (tow truck);~~
- ~~j. Hearse; and~~
- ~~k. Any other vehicle meeting the above definition.~~

SECTION 3. Section 13-162 of the Code of Ordinances is hereby amended to state as follows:

Sec. 13-62. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

~~Commercial vehicle: Any vehicle not owned or operated by a government entity which operates on any public highway for the purpose of transporting persons or property for compensation, whether empty or loaded. Any vehicle which is used primarily for non-personal business activities. Outside lettering or logos on any such vehicle designating a business of any kind shall be one, but not the only, method of establishing its commercial status. The following types of vehicles shall be considered commercial for purposes of this section:~~

- ~~a. Truck cab;~~
- ~~b. Semitrailer;~~
- ~~c. Tractor crane;~~

- d. Power shovel;
- e. Well driller;
- f. Bus;
- g. Taxi, limousine and other vehicles for hire;
- h. Ambulance;
- i. Wrecker (tow truck);
- j. Hearse; and
- k. Any other vehicle meeting the above definition.

SECTION 4. Section 22-4 of the Code of Ordinances is hereby amended to state as follows:

Sec. 22-4. Definitions.

* * *

(b) *Terms defined.* For the purposes of this chapter, the following words and phrases shall have the meanings herein set forth:

* * *

Commercial vehicle: ~~Any vehicle designed, intended or used for profit or hire, other than private passenger vehicles and private trailers.~~ Any vehicle which is used primarily for non-personal business activities. Outside lettering or logos on any such vehicle designating a business of any kind shall be one, but not the only, method of establishing its commercial status. The following types of vehicles shall be considered commercial for purposes of this section:

- a. Truck cab;
- b. Semitrailer;
- c. Tractor crane;
- d. Power shovel;
- e. Well driller;
- f. Bus;
- g. Taxi, limousine and other vehicles for hire;
- h. Ambulance;
- i. Wrecker (tow truck);
- j. Hearse; and
- k. Any other vehicle meeting the above definition.

* * *

Heavy commercial vehicle: any vehicle in excess of one of the following: (a) ~~ten~~ **fifteen** thousand ~~(40,000 15,000)~~ pounds gross vehicle weight ratio; or (b) eight (8) feet in width; or (c) eight (8) feet in height; or (d) twenty-two (22) feet in length. It may or may not have outside lettering or logos displaying information identifying a business. Heavy commercial vehicle also shall mean other vehicles used for non-personal use of any kind that may not precisely meet the above criteria, including but not limited to:

- a. Tractor crane;

- b. Power shovel;
- c. Well driller and other such vehicles so constructed and designed as a tool and not a hauling unit, even if such equipment may be used on the roads and highway incidental to the purposes for which designed;
- d. Wrecker/tow truck;
- e. Semi-trailer;
- f. Flat bed truck;
- g. Motor vehicles modified, altered or customized for the purposes of a commercial business, so that supplies, equipment or materials are visible, including but not limited to plumbing, irrigation, mirror and glass, bucket trucks and other trade vehicles. Racks installed on vehicles in excess of twelve (12) inches above permanent roof line or vehicle bed topper will be classified as equipment. Vehicle beds or bed toppers that are made to permit side accessibility to tools, supplies, equipment, etc. even though these enclosed items are not visible are considered heavy commercial vehicles.
- h. Cube, box and step vans;
- i. Dump truck, dump truck body, or rack truck; and
- i. Any other vehicle meeting the above definition.

* * *

SECTION 5. Section 22-137 of the Code of Ordinances is hereby amended to state as follows:

Sec. 22-137. Parking of commercial vehicles.

(a) Off-street parking facilities supplied by the owner or operator to meet the requirements of this article shall not be used by commercial vehicles owned, operated or used in the business of such owner during regular hours of business. Additional parking spaces shall be provided to accommodate commercial vehicles during regular hours of business and shall be located as far away as possible from a public right-of-way. Parking of commercial vehicles shall not be used for advertising purposes between the hours of 7:00 p.m. and 8:00 a.m. Such use advertising purpose shall be demonstrated by the ~~fact that the following:~~ (a) the sign copy (as defined in the sign regulations) is greater than five (5) percent of the size of the sum of the outside surface of the two (2) sides and rear of the vehicle; and (b) the vehicle is positioned so that the copy is readily visible from a roadway.

(b) Parking of commercial vehicles and large heavy commercial vehicles within residential zoning districts (AE-1, AE-2, RS-1, RS-2, RS-3, RS-4, RS-6, RM-5 to RM-10, PUD, and PRD).

1. Parking of commercial vehicles and large heavy commercial vehicles within public and private rights-of-way. Commercial vehicles and large heavy commercial vehicles shall be permitted to park or stop within public and private rights-of-way within the residential zoning districts of the City only when such vehicles are actively engaged in the process of loading or unloading.

2. Overnight parking of large heavy commercial vehicles: exception for permitted construction sites. Large Heavy commercial vehicles may be parked overnight in a residential zoning district, provided the vehicle is not operating between the hours of

7:00 p.m. to 7:00 a.m. Monday through Saturday and 6:00 p.m. to 9:00 a.m. Sundays and national holidays, and only if such overnight parking is limited to no more than two (2) times per year per parcel. This restriction shall not apply while construction is ongoing on a residential parcel pursuant to an active City building permit.

3. Screening of commercial vehicles and heavy commercial vehicles.

a. Enclosure of commercial and heavy commercial vehicles. Within residential zoning districts, commercial vehicles and heavy commercial vehicles may be parked entirely within a garage, a carport, or within or surrounded by another opaque structure, or within an area in which the vehicle is screened by an opaque wall, fence, hedge, or vegetation which is of sufficient height and length to fully block the vehicle from view of nearby public or private rights-of-way and adjacent properties.

b. Additional screening options for commercial vehicles. The following options for screening are available to commercial vehicles, as defined in this section.

i. Screening of commercial vehicle with opaque vehicle cover. Within residential zoning districts, commercial vehicles may be parked on a paved driveway provided that the vehicle is covered entirely by an opaque cover. Said cover shall be constructed of sound material and shall be maintained in good condition, such that there is no fading, tearing, or holes in the cover. Vinyl or canvas tarpaulin, or other covers not designed for use as a vehicle cover, shall be prohibited. All vehicle covers shall be constructed to permit all license registrations to be visible from public and private rights-of-way. This option may not be utilized to screen large heavy commercial vehicles as defined herein.

ii. Coverage of commercial vehicle logo with opaque magnetic logo or lettering cover. A commercial vehicle may meet the screening requirement of this subsection by completely obscuring commercial lettering or signage with a magnetic cover, provided it is the same color as the vehicle. This option does not apply to heavy commercial vehicles, and is available only to those vehicles that are considered commercial vehicles because of the presence of permanent or temporary signage on the vehicle.

(c) The parking of trailers shall be exempted from the requirements of this section of the Code except for the screening of such trailers as long as the trailer is accessory to a permitted use in the zoning district. Trailers include, but are not limited to, livestock trailers and trailers associated with a legally permitted nursery.

SECTION 6: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word hereof be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof that is not declared invalid.

SECTION 8. This Ordinance shall take effect 15 days after the date of adoption.

1 **PASSED** this _____ day of _____ 2006, upon first reading.
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3 **PASSED AND ADOPTED** this _____ day of _____ 2006, upon second and
4 final reading.
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10 **CITY OF PARKLAND**
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14 _____
15 **MICHAEL UDINE, MAYOR**

16 Attest:

17 _____
18 **SANDRA COUZZO, CMC**
19 **CITY CLERK**
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21 **APPROVED AS TO FORM AND LEGALITY:**
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23 _____
24 **ANDREW S. MAURODIS, ESQ.**
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