



REAL ESTATE LEASING MEETING AGENDA

Meeting of Real Estate Leasing Committee

Hyatt – Bonita Springs

Thursday, May 30, 2024 – 9:30am-11:00am

Hybrid Meeting – Zoom Meeting Link:

<https://us06web.zoom.us/j/86875918347?pwd=pKQcJ2pcf92zmVXCwX20vDCGFfn0wY.1>

1. Committee Sponsor and Presentation – The Fund – Cynthia Raleigh
2. Committee Business – Christopher J. Sajdera
 - a. Approval of Minutes from the Real Estate Leasing Meeting, February 23, 2024 (Ritz-Carlton Orlando, Grande Lakes)
 - b. 2024-2025 Committee Planning
3. Supreme Court Leases – Proposed change to the lease versions approved in 2021 – Kristen King Jaiven
4. 24A01-02 Tax Information Publication – Commercial Lease Tax Reduction June 1, 2024, Kristen King Jaiven
5. Case Review - Atwood Owner LLC v. Lumzy (1D2023-0894) – Discussion of Section 83.64 and the expiration of leases. Janaye G. Pieczynski
6. Legislative Roundup:
 - a. SB 280 Vacation Rental Bills (*will Governor sign?*) – Ryan McConnell
 - b. HB 621 Protecting Private Property Rights – Christopher J. Sajdera
7. Upcoming Meetings:
 - a. July 24-27, 2024, The Breakers, Palm Beach
 - b. September 4-8, 2024, Loews Coral Gables
8. Adjourn.

RPPTL SECTION REAL ESTATE LEASING COMMITTEE MEETING
Minutes of Meeting on February 23, 2024
In-Person at The Ritz-Carlton Orlando, Grand Lakes, and Remotely via Zoom

A hybrid meeting, providing for attendance in person at the Ritz-Carlton Grande Lakes in Orlando, Florida and via Zoom, was held on February 23, 2024. The meeting was called to order by Ryan McConnell, Co-Vice Chair of the Real Estate Leasing Committee at approximately 12:09 p.m.

1. **INTRODUCTION OF COMMITTEE SPONSOR:** (12:10 p.m.) The committee sponsor for the Real Estate Leasing Committee was introduced as The Fund and Cynthia Raleigh gave a brief word regarding The Fund's sponsorship. The sponsor was thanked for its ongoing support.
2. **APPROVAL OF MINUTES FROM NOVEMBER 10, 2023, MEETING:** (12:11 p.m.) The meeting minutes from the prior Real Estate Leasing Committee Meeting on November 10, 2023, in Tampa were approved with no objection.
3. **2024-2025 COMMITTEE PLANNING:** (12:12 p.m.) Ryan McConnell opened the floor to suggestions for topics for the 2024-2025 committee meetings.
4. **LEASING FORMS UPDATES:** (12:14 p.m.) Co-Vice Chair Kristen King Jaiven gave an update on the status of the Supreme Court Leasing Form updates.
5. **REQUEST FOR WHITE PAPER REVIEW VOLUNTEERS:** (12:16 p.m.) Kristen King Jaiven requested volunteers to review and provide feedback for white papers.
6. **CASE LAW REVIEW:** (12:16 p.m.) Janaye Pieczynski, Committee Secretary and Second-Year Real Property Fellow, lead the Case Law Review and Discussion on *Shrewsbury v. Childers*, Case No. 1D2023-0750.
7. **ADJOURNMENT:** (12:20 p.m.) The meeting was adjourned at approximately 12:20 p.m.

Supreme Court Leases – Proposed change to the lease versions approved in 2021

Updated Proposed Language:

Residential Lease – Apartment Multi-Family Rental Housing (AKA the Condominium Version): Landlord grants to Tenant permission to use, during the Lease Term, along with others, the common areas of the building and the development of which the Premises are a part, subject to all terms of the governing documents for the condominium(s), the cooperative development, and/or the homeowners' association, including, without limitation, any declaration of covenants and restrictions applicable to the association(s), bylaws, and any other restrictions, rules, and regulations (collectively "Governing Documents"), now existing or hereafter adopted amended, or repealed. Tenant, during the Lease Term, may obtain a copy of the association's rules from: (i) the Landlord or (ii) the association, as an authorized representative of Landlord, by contacting the association and providing a copy of this Lease. If the Premises are part of a condominium association, Tenant also has a right to inspect and to copy, during the Lease Term, the documents outlined in Chapter 718, Florida Statutes.

Residential Lease – Single Family Home or Duplex (AKA Single Family Version): Landlord grants to Tenant permission to use, during the Lease Term, along with others, the common areas of the building and the development of which the Premises are a part, subject to all terms of the governing documents for the condominium(s), the cooperative development, and/or the homeowners' association, including, without limitation, any declaration of covenants and restrictions applicable to the association(s), bylaws, and any other restrictions, rules, and regulations (collectively "Governing Documents"), now existing or hereafter adopted amended, or repealed. Tenant, during the Lease Term, may obtain a copy of the association's rules from: (i) the Landlord or (ii) the association, as an authorized representative of Landlord, by contacting the association and providing a copy of this Lease.

Language approved by EC on April 24, 2021; Hammock Beach Meeting:

Residential Lease – Apartment Multi-Family Rental Housing (AKA the Condominium Version): Landlord grants to Tenant permission to use, during the Lease Term, along with others, the common areas of the building and the development of which the Premises are a part, subject to all terms of the governing documents for the condominium(s), the cooperative development, and/or the master homeowners' association, of which the Premises are a part, including, without limitation, any declaration of covenants and restrictions applicable to the association(s), bylaws, and any other restrictions, rules, and regulations (collectively "Governing Documents"), now existing or hereafter adopted amended, or repealed. If the Premises are part of a condominium development, in accordance with Section 718.111(12)(c)(1), Florida Statutes, Tenant has a right to inspect and to copy the condominium association's bylaws and rules during the Lease Term. Tenant may do so by contacting the condominium association. If the Premises are part of a cooperative development, in accordance with Section 719.104(2)(c), Florida Statutes, Landlord grants Tenant with the authority, as an authorized representative of the Landlord under this Lease, to inspect and to copy the cooperative association's bylaws and rules during the Lease Term. Tenant may do so by contacting the cooperative association. Unless otherwise authorized by Landlord, Tenant shall not have any authority to inspect or copy any other official records or documents of the cooperative development association. If the Premises are part of a master homeowners' association, in accordance with Section 720.303(5), Florida Statutes, Landlord grants Tenant with the authority, as an authorized representative of the Landlord under this Lease, to inspect and to copy the master homeowners' association's bylaws and rules during the Lease Term. Tenant may do so by contacting the master homeowners' association. Unless otherwise authorized by Landlord, Tenant shall not have any authority to inspect or copy any other official records or documents of the master homeowners' association.

Residential Lease – Single Family Home or Duplex (AKA Single Family Version): During the Lease Term, Tenant will have permission to use, along with others, the common areas of the association and the development of which the Premises are a part, subject to all terms of the governing documents for the association(s) and the development of which the Premises are a part, including, without limitation, any declaration of covenants and restrictions applicable to the association(s), bylaws, and any other restrictions, rules, and regulations (collectively, "Governing Documents"), now existing or hereafter adopted amended, or repealed. If the Premises are part of a homeowners' association, in accordance with Section 720.303(5), Florida Statutes, Landlord grants Tenant with the authority, as an authorized representative of the Landlord under this Lease, to inspect and to copy the homeowners' association's bylaws and rules during the Lease Term. Tenant may do so by contacting the homeowners' association. Unless otherwise authorized by Landlord, Tenant shall not have any authority to inspect or copy any other official records or documents of the homeowners' association.



Tax Information Publication

TIP

No: **24A01-02**

Date Issued:

April 8, 2024

State Sales Tax Rate Imposed on Rentals, Leases, or Licenses To Use Real Property Reduced to 2.0%

Effective June 1, 2024, the state sales tax rate imposed under section 212.031, Florida Statutes (F.S.), on the total rent charged for renting, leasing, letting, or granting a license to use real property (also known as “commercial rentals”) is reduced from 4.5% to 2.0%. Some examples of real property rentals subject to tax under s. 212.031, F.S., include rentals of commercial office or retail space, warehouses, and self-storage units or mini-warehouses.

The total rent charged includes all consideration due and payable by the tenant for the privilege or right to use or occupy the real property. The local option discretionary sales surtax imposed by the county where the real property is located continues to apply to the total rent charged.

Sales tax is due at the rate in effect during the time the tenant occupies or is entitled to occupy the real property, regardless of when the rent is paid.

- Rental charges paid on or after June 1, 2024, for rental periods of December 1, 2023, through May 31, 2024, are subject to 4.5% state sales tax plus any applicable discretionary sales surtax.
- Rental payments made prior to June 1, 2024, that entitle the tenant to occupy the real property on or after June 1, 2024, are subject to 2.0% state sales tax plus any applicable discretionary sales surtax.

The reduced state sales tax rate on commercial rentals does not apply to the state sales tax rate on rentals or leases of living, sleeping, or housekeeping accommodations for six months or less (also known as “transient rentals”), parking or storage spaces for motor vehicles in parking lots or garages, docking or storage spaces for boats in boat docks or marinas, or tie-down or storage space for aircraft at airports.

Information about the proper reporting of tax due on commercial rentals is available on the Department’s website at floridarevenue.com/forms. Click the Sales and Use Tax dropdown menu and scroll to *Sales and Use Tax on the Rental, Lease, or License to Use Commercial Real Property* (GT-800016).

References: Chapter 2021-2, Laws of Florida; Section 212.031, Florida Statutes

For More Information

This document is intended to alert you to the requirements contained in Florida laws and administrative rules. It does not by its own effect create rights or require compliance.

For forms and other information, visit the Department’s website at floridarevenue.com or call Taxpayer Services at (850) 488-6800, Monday through Friday (excluding holidays).

For a detailed written response to your questions, write the Florida Department of Revenue, Taxpayer Services MS 3-2000, 5050 West Tennessee Street, Tallahassee, FL 32399-0112.

Atwood Owner LLC v. Lumzy

Court of Appeal of Florida, First District

April 17, 2024, Decided

No. 1D2023-0894

Reporter

2024 Fla. App. LEXIS 2910 *; 49 Fla. L. Weekly D 845; 2024 WL 1643561

ATWOOD OWNER LLC, Appellant, v. AQCUNETTA
LUMZY, Appellee.

LONG, J., concurring.

Notice: NOT FINAL UNTIL DISPOSITION OF ANY
TIMELY AND AUTHORIZED MOTION UNDER [FLA. R.
APP. P. 9.330](#) OR [9.331](#).

DECISION WITHOUT PUBLISHED OPINION

Prior History: [*1] On appeal from the County Court
for Escambia County. R. Scott Ritchie, Judge.

Core Terms

lease, eviction, trial court, expiration, landlord, tenant,
retaliatory conduct, a landlord, retaliatory, retaliate,
holdover

Counsel: Elizabeth Cruikshank of Elizabeth
Cruikshank, Atlanta, GA, for Appellant.

Carrie Vaughn Crome and Melissa Condon Onacki of
Legal Services of North Florida, Pensacola, for
Appellee.

Judges: LEWIS and BILBREY, JJ., concur; LONG, J.,
concur with opinion.

Opinion

PER CURIAM.

AFFIRMED.

LEWIS and BILBREY, JJ., concur; LONG, J., concurs with
opinion.

Concur by: LONG

Concur

I concur in the Court's decision to affirm but write
separately to discuss the application of [section 83.64,
Florida Statutes](#), to a holdover tenant's claim of
retaliatory eviction.

Appellee Acquinetta Lumzy was given a notice of non-
renewal of her lease by Appellant Atwood Owner, LLC.
Lumzy's lease then expired the following month, at
which point she refused to leave and became a
holdover tenant. Atwood then filed an eviction action.
Lumzy raised the affirmative defense of retaliatory
conduct under [section 83.64](#), citing her previous report
to code enforcement as the reason for her eviction. A
hearing was held. The trial court ruled that the eviction
was retaliatory, and the complaint was dismissed. This
appeal follows.

[Section 83.64, Florida Statutes](#), provides that it is
unlawful for a landlord "to bring or threaten to bring an
action for [*2] possession or other civil action, primarily
because the landlord is retaliating against the tenant."
An example of conduct for which a landlord may not
retaliate includes where "[t]he tenant has complained to
a governmental agency charged with responsibility for
enforcement of a building, housing, or health code of a
suspected violation applicable to the premises."

On appeal, Atwood argues that, under [section 83.64](#),
there is a legal distinction between an action for
possession brought during the term of a lease and one
brought after the lease's expiration. We have never
addressed whether a [section 83.64](#) retaliatory conduct
defense is available after the natural expiration of a
tenant's lease. Nor, if it is available, whether the power
of [section 83.64](#) is sufficient to compel landlords to enter
into new indefinite lease agreements against their will.
The trial court here permitted the defense and then,
relying on the same, effectively imposed a new lease on
the landlord.

I nevertheless concur in the Court's decision to affirm without addressing these arguments. Appellant failed to provide a transcript of the proceedings below and there is nothing in the sparse record to show that these issues were presented to the trial court. [*3] We are therefore limited in our review. Because Appellant has failed to demonstrate any preserved reversible error, we must affirm.

End of Document

The 2023 Florida Statutes (including Special Session C)

[Title VI](#)

CIVIL PRACTICE AND PROCEDURE

[Chapter 83](#)

LANDLORD AND TENANT

[View Entire Chapter](#)

83.64 Retaliatory conduct.—

(1) It is unlawful for a landlord to discriminatorily increase a tenant's rent or decrease services to a tenant, or to bring or threaten to bring an action for possession or other civil action, primarily because the landlord is retaliating against the tenant. In order for the tenant to raise the defense of retaliatory conduct, the tenant must have acted in good faith.

Examples of conduct for which the landlord may not retaliate include, but are not limited to, situations where:

- (a) The tenant has complained to a governmental agency charged with responsibility for enforcement of a building, housing, or health code of a suspected violation applicable to the premises;
- (b) The tenant has organized, encouraged, or participated in a tenant organization;
- (c) The tenant has complained to the landlord pursuant to s. [83.56\(1\)](#);
- (d) The tenant is a servicemember who has terminated a rental agreement pursuant to s. [83.682](#);
- (e) The tenant has paid rent to a condominium, cooperative, or homeowners' association after demand from the association in order to pay the landlord's obligation to the association; or
- (f) The tenant has exercised his or her rights under local, state, or federal fair housing laws.

(2) Evidence of retaliatory conduct may be raised by the tenant as a defense in any action brought against him or her for possession.

(3) In any event, this section does not apply if the landlord proves that the eviction is for good cause. Examples of good cause include, but are not limited to, good faith actions for nonpayment of rent, violation of the rental agreement or of reasonable rules, or violation of the terms of this chapter.

(4) "Discrimination" under this section means that a tenant is being treated differently as to the rent charged, the services rendered, or the action being taken by the landlord, which shall be a prerequisite to a finding of retaliatory conduct.

History.—s. 8, ch. 83-151; s. 450, ch. 95-147; s. 3, ch. 2003-72; s. 15, ch. 2013-136.