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IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR SANTA ROSA COUNTY, FLORIDA

STERLING FIBERS, INC.,

Plaintiff,

vs. Case No.: 24000658CAMXAX

AVALON BEACH MULAT FIRE PROTECTION DISTRICT, GREG S. BROWN II, in his official capacity as Property Appraiser for Santa Rosa County, Florida, and JAMES A. ZINGALE, in his official capacity as Executive Director for the Florida Department of Revenue,

Defendants.
_____/

AMENDED COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff, STERLING FIBERS, INC. ("Plaintiff" or "Sterling"), through undersigned counsel, files its Amended Complaint and sues Defendants, AVALON BEACH MULAT FIRE PROTECTION DISTRICT (hereinafter, "AMFD" or the "District") and GREG S. BROWN II, in his official capacity as Property Appraiser for Santa Rosa County, Florida (hereinafter "Property Appraiser"), and JAMES A. ZINGALE, in his official capacity as Executive Director for the Florida Department of Revenue (hereinafter "Department of Revenue") and says:

NATURE OF THE CASE

1. Plaintiff brings this action challenging the validity of a new non-ad valorem assessment that AMFD is attempting to charge for the first time against the Plaintiff's manufacturing facilities located within the Avalon Beach-Mulat special district for fiscal year 2024-2025. Plaintiff seeks a declaration of this Court that the assessment in question is void and unlawful as applied to Sterling, because the assessment violates numerous provisions of the Laws and Constitution of the State of Florida for the reasons detailed below.

2. The tax levied by AMFD for the current tax year represents a more than 1,500% increase over the prior year's assessment by AMFD against Sterling. No other taxpayer has been so impacted.

PARTIES, JURISDICTION, AND VENUE

3. This Court has original jurisdiction over the subject matter of this action pursuant to Section 26.012 and Chapter 194, Florida Statutes.

4. Plaintiff, Sterling Fibers, Inc., is a Delaware corporation authorized to conduct business in the state of Florida, having a principal place of business in Santa Rosa County, Florida.

5. Defendant, Avalon Beach-Mulat Fire Protection District, is an independent special taxing fire protection and rescue service district established by the Florida Legislature in 1980, operating pursuant to its Charter under Section 191,009, Florida Statutes.

6. Defendant, Greg S. Brown II, is the County Property Appraiser for Santa Rosa County, Florida.

7. Defendant, James A. Zingale, is the Executive Director for the Florida Department of Revenue.

8. Venue is proper in this Court because the property of Sterling that is the subject of this lawsuit is located in Santa Rosa County, Florida, within the territorial boundaries of the special district administered by AMFD.

ALLEGATIONS OF FACT

Background

9. Plaintiff, Sterling, is a family-owned and operated business founded in 1957 that manufactures specialty technical fibers for a number of industrial and construction applications.

Sterling's operations are headquartered on an industrial park facility that it owns in Pace, FL, at 5005 Sterling Way, which formerly housed a corporate predecessor until being reorganized in its current form in 1997.

10. Sterling's facility is located on a tract of land comprising approximately 1,100 acres total, the majority of which exists as natural (unimproved) timberland. Importantly, the structures where Sterling conducts its manufacturing and management operations total approximately 615,00 square feet, although approximately one-half of those facilities are abandoned.

11. Sterling is a significant taxpayer of Santa Rosa County, to the State of Florida, and their respective constituent bodies including the District. Over the years, Sterling has additionally donated land and equipment to AMFD and its predecessors as charitable contributions for the safety and betterment of the community.

12. AMFD is an independent special district that was originally formed as a volunteer fire department until being incorporated as specified in its Charter, a copy of which is attached hereto in its current form as **Exhibit 1**. See Chapter 2005-347, Laws of Florida (House Bill No. 1677) (re-codifying Charter).

13. All special districts may impose only those taxes, assessments, or fees authorized by special or general law. Independent special fire control districts, such as AMFD, are created by the Legislature to provide fire suppression and related activities within the territorial jurisdiction of the district. See section 191.003(5), Fla. Stat. (2024). Independent special fire control districts are governed by both the Uniform Special District Accountability Act (Chpt. 189, Fla. Stat.) and the Independent Special Fire Control District Act codified in Chapter 191, Florida Statutes.

14. Special taxing districts are unique creatures of Florida law. Under Florida law, these districts may levy ad valorem taxes as provided in the special act creating the District, and may also levy non-ad valorem taxes assessments subject to specific statutory limitations. The rate of any assessment by such districts must meet fair apportionment standards. Section 191.011(1), Fla. Stat.

Taxing Authority of AMFD

15. Originally, this District's Charter (Exhibit 1) only authorized AMFD to levy and collect ad valorem taxes on properties located within the district to fund its operations. Consequently, the only local ad valorem taxes that Sterling paid were previously limited to the general taxes levied by Santa Rosa County rather than the District, given its separate status as an independent special district without the requisite grant of statutory authority.

16. In 2024, the Florida Legislature enacted an amendment to the Charter that eliminated the District's ability to levy ad valorem assessments, and instead, granted it the right to charge non-ad valorem assessments in accordance with chapters 170, 189, 101, and 191, Florida Statutes. The amendment has an effective date of October 1, 2024. A copy of the amendment is attached as **Exhibit 2**. See Chapter 2024-297, Laws of Florida (House Bill No. 1575).

17. The Charter amendment (Exhibit 2) applicable to AMFD was part of a series of substantially identical amendments that the Legislature enacted in 2024 for a number of other intendent fire protection districts located in Santa Rosa County, including the Pace and Midway districts. Upon information and belief, the stated goal of these amendments was to alleviate the tax burden upon the taxpayers of Santa Rosa County at-large for the expenses incurred by certain of the independent fire districts, most notably the Midway Fire Protection District.

18. The Charter amendment for AMFD (Exhibit 2) provides a rate schedule of authorized non-ad valorem assessments that may be levied "up to the following ***maximum*** amounts: .... Five hundred dollars for commercial properties up to 950 square feet, with an additional $0.1544 per square foot in excess of 950 square feet." (emphasis added). Similarly, a previous referendum of the District's rate payers authorized the Board to apply a ***maximum*** millage rate of 2 mills applied to the prior ad valorem taxes that have since been abolished under the recent Charter amendment.

Excessive Non-Ad Valorem Assessments Charged to Sterling

19. Following enactment of the amending legislation (Exhibit 2), the District prepared a proposed budget and the TRIM notices that the Tax Collector issued to Sterling in August 2024, which contained line items for the new non-ad valorem assessment totaling $107,332.74. The District set this assessment amount based on a calculation of the total square footage of Sterling's manufacturing facilities and warehouse shown in the online property records maintained for "informational purposes only" by the Santa Rosa County Property Appraiser's Office.

20. Significantly, the square footage calculation that the District used for setting the assessment amount includes the area of the structure that is abandoned, vacant, and unused.

21. The District's Board held a public hearing on the proposed budget on September 19, 2024. Upon information and belief, the District failed to provide timely, legally sufficient notice by publication of the date and time of the meeting prior to the public budget hearing in a local newspaper as required by applicable Florida Statute and Florida Administrative Codes. Likewise, Sterling did not receive legally sufficient prior notice of the meeting by mail.

22. When Sterling noted the upcoming budget workshop through a cryptic agenda posted on the AMFD website, Sterling's president attended the hearing with counsel and expressed objections to the new, sharply-increased assessments proposed for Sterling's property. In response to the objections (among other objecting taxpayers), the Board members attending the meeting stated that they have no discretion to decrease the millage or the rate calculations set forth as the ***maximum allowable rates*** as clearly stated in the recent Charter amendment. Likewise, the Board made no findings as to any increased level of service or expenses to justify the budget increase, and has yet to file a "final assessment roll" with the vice chair of the Board for the new non-ad valorem assessments as required under section 191.011(7), Fla. Stat.

23. Having declined to adjust the assessment rates for Sterling following the public hearing, the District's Board adopted the assessment reflected in the TRIM notices that were subsequently incorporated into the final 2024 tax rolls that the Property Appraiser certified to the Tax Collector on October 8, 2024.

24. Consistent with the tax roll certifications, the final tax bills were mailed to Sterling by the Tax Collector's office on or about November 1, 2024. The relevant tax bill reflecting the non-ad valorem assessments levied by AMFD is attached hereto as **Exhibit 3** (Tax Account [redacted]; $107,332.74).

25. The 2024-25 assessments charged to Sterling by AMFD represent a 1,529% increase over the assessments charged by this same district for fiscal year 2023-24. In fact, the assessment amount even exceeds the total general ad valorem taxes assessed by Santa Rosa County against Sterling for this same tax year. The assessments by AMFD against Sterling's facilities account for approximately 5.6% of the District's total annual budget for fiscal year 2024-2025.

26. Sterling is current on payment of all taxes and assessments lawfully owed to any governmental entity regarding its facilities in the Avalon Beach-Mulat community where the assessments are charged by AMFD.

27. On November 27, 2024, Sterling made payment under protest to the Santa Rosa County Tax Collector for the full amount of the disputed non-ad valorem assessment charged by AMFD. A copy of the accompanying letter of counsel for Sterling documenting the payment under protest is attached as **Exhibit 4**.

Failure to Adhere to Statutorily Required Notice of Proceedings by a Governmental Entity is a Violation of Procedural Due Process

28. Article I, Section 9 of the Florida Constitution provides that "no person shall be deprived of life, liberty or property without due process of law..." Fla. Const. art. I, § 9. Procedural due process under the Florida Constitution guarantees to every citizen the right to have that course of legal procedure which has been established in Florida's judicial system for the protection and enforcement of private rights, and it contemplates that the defendant shall be given fair notice and afforded a real opportunity to be heard and defend in an orderly procedure, before judgment is rendered against him. *Gen. Elec. Cap. Corp. v. Shattuck*, 132 So. 3d 908 (Fla. Dist. Ct. App. 2014). As explained by the Court in *Department of Law Enforcement v. Real Property,* 588 So.2d 957, 960 (Fla.1991), "[p]rocedural due process serves as a vehicle to ensure fair treatment through the proper administration of justice where substantive rights are at issue."

29. The specific parameters of the notice and opportunity to be heard required by procedural due process are not evaluated by fixed rules of law, but rather by the requirements of the particular proceeding. *Keys Citizens For Responsible Gov't, Inc. v. Fla. Keys Aqueduct Auth.*, 795 So. 2d 940 (Fla. 2001). Furthermore, "procedural due process, unlike some legal rules, is not a technical concept with a fixed content unrelated to time, place and circumstances; instead, due

process is flexible and calls for such procedural protections as the particular situation demands." *Id.*

30. To prove a violation of procedural due process rights, the following elements must be established: (1) deprivation of a constitutionally-protected interest; (2) state action; and (3) constitutionally-inadequate process. *Chakra 5, Inc. v. City of Miami Beach*, 254 So. 3d 1056, 1070 (Fla. Dist. Ct. App. 2018) quoting *Arrington v. Helms*, 438 F.3d 1336, 1347 (11th Cir. 2006).

31. Accordingly, Florida courts have firmly held that governmental bodies and taxing authorities must abide by the notice requirements of applicable Florida Statutes, Florida Administrative Codes, and local municipal ordinances, and failure to do so can render improperly noticed public hearings null and void. *See Wilson v. Sch. Bd. of Marion Cnty.*, 424 So. 2d 16 (Fla. Dist. Ct. App. 1982); *see also Save Calusa, Inc. v. Miami-Dade Cnty.*, 355 So. 3d 534, 538 (Fla. Dist. Ct. App. 2023), reh'g denied (Feb. 12, 2023), review denied sub nom. *Miami-Dade Cnty., Kendall Assocs. I, LLLP v. Save Calusa, Inc.*, No. SC2023-0337, 2024 WL 1905016 (Fla. May 1, 2024), and review denied sub nom. *Kendall Assocs. I, LLLP v. Save Calusa Inc.*, No. SC2023-0339, 2024 WL 1905023 (Fla. May 1, 2024).

32. For instance, in *Keys*, the Florida Keys Aqueduct Authority ("Authority") adopted a resolution authorizing the issuance of sewer revenue bonds which would be repaid by the fees of users who would be required to connect to the wastewater system, in the interest of protecting the ecosystem and water supply of the Florid Keys. *Keys* 795 So. 2d 940 at 942. After holding meetings to adopt the resolution, the Authority filed a complaint in circuit court pursuant to Chapter 75, Florida Statutes, requesting that the court validate the bond. *Id* at 943. The hearing was scheduled for December 21, 2000, and a notice of the hearing was published in the *Key West*

Citizen newspaper on November 30 and December 7, 2000, in compliance with Fla. Stat. § 75.06 which requires the clerk of court to "publish a copy of the order for two consecutive weeks at least twenty days before the hearing in a newspaper of the county where the complaint is filed." *Id.*

33. The plaintiff, Keys Citizens ("Citizens") sued, on the grounds that its due process rights were violated through insufficient notice from the Authority, that actual notice should have been given to each property owner in the jurisdiction, that the published notice was insufficient as it failed to mention that the hearing would consider the connection ordinance, and because the notice referred the wrong case number. *Id* at 949. Upon the case reaching the Supreme Court of Florida, the Court affirmed the earlier rulings in favor of the Authority, and held that actual notice to each property owner was not required, as the applicable statutes only required constructive notice via newspaper advertisements for bond validation proceedings. Furthermore, although the notice published in the newspaper did not mention that the hearing would address the connection ordinance and referred to the wrong case number, the advertisement had provided adequate notice as Florida case law and the language of the applicable statutes for bond validation proceedings did not require specificity of published notices. *Id*; *see Washington Shores Homeowners' Ass'n v. City of Orlando*, 602 So.2d 1300, 1302 (Fla.1992); *see also* §§ 75.05, 75.06, Fla. Stat. Because the Authority's notice satisfied the statutory notice requirements for bond validation proceedings, Citizens due process rights were not violated, and the proceedings validating the sewer revenue bonds ordinance were constitutionally sound.

34. In contrast, when jurisdictions fail to follow and satisfy the relevant notice procedures for certain public hearings, the result of such hearings can be deemed illegal and void. *See Wilson*, 424 So. 2d 16 at 21; *see* also *Save Calusa*, 355 So. 3d 534 at 538. In *Calusa*,

Miami-Dade County was to hold a public hearing regarding the elimination of a restrictive covenant to allow for rezoning of a sizeable property for the construction of 550 single-family units. *Save Calusa* at 536. A date for a public hearing was set and was properly noticed and complied with the Miami-Dade County Code § 33-310(c). *Id* at 537. Specifically, the Code requires notice to first be published in a newspaper of general circulation in Miami-Dade County, then notice must be both mailed to homeowners within a specified radius and posted on the affected property, and finally a courtesy copy should then be furnished to the president of certain specified homeowners' associations. *Id* at 538 quoting § 33-310(c)(1), § 33-310(c)(2)–(3), (e), Miami-Dade County, Fla., Code. Under the Code, failure to publish, post, or mail notice to affected homeowners "renders voidable any hearing held on the application." *Id* quoting Miami-Dade County, Fla., Code § 33-310(g).

35. However, on the eve of the hearing the county commission had concerns regarding satisfying quorum, and canceled the meeting. *Id* at 537. Notice of the rescheduled hearing was mailed to residents within one-half mile of the subject property, posted at the hearing site and property, and electronically transmitted to self-subscribed users of the electronic notification service. *Id.* However, twelve days before the rescheduled public hearing, citizens of the county objected and informed the county that the notice reflected the wrong development applicant, and had not been properly published in a newspaper as required by the Code. *Id.* Despite the objections, the hearing proceeded. *Id.* In response, plaintiff brought suit, arguing that the failure to comply with the Code's notice requirements was a violation of procedural due process.

36. Upon review, the Third District examined the exact language of the notice requirements for the hearings under the Code, and found that "the plain language of the Code

makes clear that published notice is mandatory and not discretionary… the Code expressly states, '[t]he word 'shall' is always mandatory and not merely directory.' Miami-Dade County, Fla., Code § 1-2(h) (2021)" *Id* at 538. Furthermore, the Third District cited to *Fla. Tallow Corp. v. Bryan*, 237 So. 2d 308, 309 (Fla. 4th DCA 1970), which stated that "The word 'shall' when used in a statute or ordinance has, according to its normal usage, a mandatory connotation." *Id.* The Third District cites numerous cases which affirm that strict compliance with notice requirements of zoning measure hearings "is a jurisdictional and mandatory prerequisite to the valid enactment of a zoning measure." *Webb v. Town Council of Town of Hilliard*, 766 So. 2d 1241, 1244 (Fla. 1st DCA 2000), and that such ordinances are null and void where rescheduled public hearings fail to comply with the statutory notice requirements *See Coleman v. City of Key West*, 807 So. 2d 84, 85–86 (Fla. 3d DCA 2001); *see also City of Fort Pierce v. Davis*, 400 So. 2d 1242, 1245 (Fla. 4th DCA 1981).

37. Ultimately, the Third District held that the County had violated the statutorily mandated notice requirements for the rescheduled hearing, and thereby the plaintiff's procedural due process rights were violated. Id at 541. Importantly, the Third District states that if the legal error of improper notice is not corrected "it will remain unknown the extent of the impact resulting from the error in notice, including whether [plaintiff] would have presented a more developed objection. Allowing the decision to stand threatens to compromise the due process the regulatory framework strives to afford." *Id.* Accordingly, the Third District granted the plaintiff's petition for certiorari and quashed the order under review.

38. Finally, the case of *Wilson v. School Bd. of Marion County* provides facts highly analogous to the case at bar. In *Wilson*, taxpayers of Marion County brought a class action suit challenging the validity of a discretionary two-mill tax levy imposed by the county school board.

Wilson at 17. The taxpayers sued on the basis that the School Board failed to satisfy the notice requirements for several procedural meetings regarding the proposed budget and tax levy. *Id* at 18. In total, the taxpayers brought suit based on six violations of the notice requirements under applicable Florida law. *Id.* First, The School Board failed to comply with Subsection 236.25(2)(c), and subsection 200.065(3), Florida Statutes, which require a school board to publish two advertisements of a public meeting for its intent to levy additional taxes in a local newspaper, in accordance with the type size and location required by 200.065(3), Florida Statutes. *Id.* The School Board failed to publish two notices, and the notice it did publish was not printed in the manner required under 200.065(3), Florida Statutes. Second, the School Board advertised in a newspaper on January 20, 1981, that it would hold a meeting on January 27 to consider "a series of items which will be published in an agenda seven days prior to the meeting." *Id.* However the Fifth District found that this notice was "not sufficient to make up for the deficiencies in the first notice, nor did it, itself, comply with the size and format required in subsections 200.065(3) and (3)(b), and if subsection 200.065(2)(a) applied, the meeting should have been held within three days of the notice." *Id.* Third, on March 3, 1981, the School Board held a public meeting to finalized its budget and tax levies where it passed the discretionary 2 mill levy, however the School Board gave neither actual notice to taxpayers, nor published any advertisements concerning the meeting as required under subsections 200.065.(2)(f) and 326.25(2)(c). *Id.*

39. The taxpayers also argued in its complaint that the March 3 meeting was invalid as it was held less than 60 days after the property appraiser prepared the certification of value pursuant to the requirements of subsections 200.065(1) and 193.023, Florida Statutes, that the meeting was illegal as it was held in a place other than that specified in section 230.17, Florida

Statutes, and that School Board never specified the projects it intended to fund from the discretionary 2 mill levy, as required under section 200.065, Florida Statutes. In reviewing the facts of the case, the Fifth District noted that "when the taxing power is being exercised by a tax authority which does not have inherent power to tax, such as cities and school boards, courts read the statutes granting the tax power strictly… statutes authorizing school boards to assess taxes are strictly construed. ***Failure to comply with a statute authorizing a levy is generally considered not just an irregularity, but a fatal omission which vitiates the tax.***" (emphasis added) *Id* at 20.

40. The Fifth District found that "[d]efects one through three go to the essence of the statute because they deprived the taxpayers of Marion County of notice of the intended levy and their right to attend the meetings where they could be heard…" *Id.* The court also found that the sixth defect, failure to specify the projects the tax levy would fund, was a material violation, as it likely rendered the tax paying public who would attend the meeting unable to engage in "meaningful dialogue" due to not having proper prior notice of the subject matter of the meeting. *Id.* The court further found that the notice requirements found in subsection 236.25(2)(c) must be strictly followed, as it uses the "shall" verb form in stating "Such *notice shall specify* the projects or number of school buses anticipated to be funded by such additional taxes...." *Id* quoting Fla. Stat. 236.25(2)(c). Due to the School Board's failures for proper notice found in defects one, two, three, and six, which violated the required notice procedures under Florida Statutes, tax-payers of the county were not noticed of the 2 mill tax levy, were unable to attend the public meeting to finalize the budget and tax levies, and accordingly the Fifth District reversed the lower court's judgment and held that the 2 mill tax levy "was illegal and void because the Board failed to act

in substantial conformity with the law. Equitable relief would have been appropriate at the time this suit was brought." *Id* at 21.

AMFD Violated Notice Requirements for Taxing Authorities Under Florida Law and thereby violated Sterling's Due Process Rights

41. Pursuant to Section § 200.065(2)(d) Florida Statutes, within 15 days after a taxing authority holds a meeting adopting its tentative budget, it must advertise in a newspaper of general circulation in the county in the manner specified in § 200.065(3), notifying the public of its intent to finally adopt a millage rate and budget. As stated in the Statute, "[a] public hearing to finalize the budget and adopt a millage rate ***shall*** be held not less than 2 days nor more than 5 days after the day that the advertisement is first published." Fla. Stat. § 200.065(2)(d) (emphasis added).

42. Section § 200.065(3) sets the following requirements for the published notice of the proposed budget hearing:

> The advertisement ***shall*** be published as provided in chapter 50. If the advertisement is published in the print edition of a newspaper, the advertisement ***must*** be no less than one-quarter page in size of a standard size or a tabloid size newspaper, and the headline in the advertisement ***shall*** be in a type no smaller than 18 point. The advertisement ***shall*** not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement ***shall*** be published in a newspaper in the county or in a geographically limited insert of such newspaper. The geographic boundaries in which such insert is circulated ***shall*** include the geographic boundaries of the taxing authority. It is the legislative intent that, whenever possible, the advertisement appear in a newspaper that is published at least weekly unless the only newspaper in the county is published less than weekly, or that the advertisement appear in a geographically limited insert of such newspaper which insert is published throughout the taxing authority's jurisdiction at least twice each week. It is further the legislative intent that the newspaper selected be one of general interest and readership in the community pursuant to chapter 50.
> Fla. Stat. § 200.065(3) (emphasis added).

43. Taxing authorities are also bound to abide by the notice requirements found within Florida Administrative Code 12D-17.003: Truth in Millage ("TRIM") Compliance, which

states that "compliance with this rule chapter ***shall*** be necessary in order for a taxing authority to be considered in compliance with Section 200.065, F.S." Fla. Admin. Code Ann. r. 12D-17.003(2) (emphasis added).

44. Under the Code, taxing authorities other than school districts must "hold a public hearing on the tentative millage rate and budget, on or after 10 days after the mailing of the TRIM notice and within 80 days after the certification date, scheduled as required by Section 200.065(2)(e) 2., F.S." *Id* at section (2)(c). Additionally, taxing authorities must give sufficient notice to the public hearing via newspaper advertisements, or by individual mail to each elector residing in the jurisdiction of the taxing authority, using the form provided in Section 200.065(3), F.S. *Id* at section (2)(d).

45. Specifically, to satisfy the notice requirements for a proposed final budget hearing, a taxing authority must publish advertisements for the public hearing "in a newspaper published in the county at least weekly unless the only newspaper in the county is published less than weekly or in a geographically limited insert of the newspaper published at least twice weekly and the circulation of such insert includes the geographic boundaries of the taxing authority," and the advertisement must appear within 15 days of the hearing adopting the tentative millage and budget. *Id.* Alternatively, the taxing authority may give actual notice by individually mailing notice to each elector residing in the jurisdiction of the taxing authority using the form provided in Fla. Stat. 200.065(3).

46. In the case at bar, AMFD failed to give proper notice to Sterling, and all other electors within the jurisdiction of the taxing authority, as it failed to either publish adequate advertisement of the proposed budget hearing in local newspapers, or to deliver individual notice of the proposed budget hearing to each elector in the jurisdiction via mail. Through its failure to

comply with the notice requirements under both Fla. Admin. Code Ann. R. 12D-17.003, and Fla. Stat. § 200.065, AMFD is in violation of the statutorily mandated notice requirements due to the Sterling, and all other taxpayers within the jurisdiction, and has violated their procedural due process rights.

47. Florida Administrative Code 12D-17.005 specifically addresses taxing authorities which are in violation of Section 200.065, Florida Statutes, and defines violations as being either major, or minor. Fla. Admin. Code Ann. r. 12D-17.005. If a taxing authority is found to have committed a major violation, it shall be required to readvertise and rehold hearings. *Id.* The Code classifies the following as major violations which require the taxing authority to readvertise and rehold hearings: 1. Failure to State Tentative Millage in Budget Summary Advertisement - Sections 200.065(3)(h), (j) and (l), 129.03(3)(b), F.S.; 7. Advertisements Not Adjacent - Section 200.065(3)(l), F.S.; 16. Failure to Follow Statutory Verbiage - Section 200.065(3)(h), F.S.; and 26. Any Other Violation Which Tends to Misinform the Taxpayers Concerning Millage or Ad Valorem Proceeds - Sections 200.065(1)-(12), F.S. *Id.*

48. AMFD is in violation of statutorily mandated notice requirements as it failed to either publish advertisements for the final proposed budget meeting, or to send actual notice via mail to each elector in the jurisdiction. When a taxing power is being exercised by a tax authority which does not have inherent power to tax, such as AMFD, the court must strictly construe the applicable statutes, and "[f]ailure to comply with a statute authorizing a levy is generally considered not just an irregularity, but a fatal omission which vitiates the tax." *Wilson* at 20. The notice requirements that AMFD is obliged to follow under 200.065 Florida Statutes, and Florida Administrative Code 12D-17.003, are mandatory and must be strictly followed, as they use the verbiage "shall" and "must." *See Wilson* at 20; *see also Fla. Tallow Corp. v. Bryan*, 237 So. 2d

308. A taxing authority's failure to satisfy mandatory notice requirements for final budget hearings regarding a mill tax levy renders the tax illegal and void. *Wilson* at 21. The exact impacts resulting from such an error in notice are unquantifiable, and upholding the results of a budget meeting that proceeded without proper notice "threatens to compromise the due process the regulatory framework strives to afford." *Calusa* at 541. If Sterling, and the other taxpayers within the jurisdiction of AMFD, had received proper notice, there may have been a much greater presence of affected taxpayers at the September 19, 2024, hearing, with more developed objections.

49. AMFD's actions violated Sterling's procedural due process rights as its total failure to satisfy the statutorily proscribed notice requirements and enforcement of the non-ad valorem tax: (1) deprived Sterling of its property rights by its enforcement of an illegal and void tax; (2) through AMFD's actions of improper notice and subsequent enforcement of the illegal non-ad valorem assessment; (3) creating a constitutionally inadequate process through AMFD's failure to give proper notice of the proposed final budget and millage rate hearing to Sterling and the other taxpayers in the jurisdiction. *Chakra 5, Inc. v. City of Miami Beach*, 254 So. 3d 1056, 1070 (Fla. Dist. Ct. App. 2018) quoting *Arrington v. Helms*, 438 F.3d 1336, 1347 (11th Cir. 2006).

50. For AMFD's failure to satisfy the mandatory notice requirements for the proposed budget meeting, this court must find the non-ad valorem tax levy approved in the meeting to be illegal and void.

51. All conditions precedent to the commencement of this action have occurred or have been waived by AMFD.

COUNT I
REQUEST FOR DECLARATORY RELIEF

52. This is an action for declaratory relief brought pursuant to Chapter 86, Florida Statutes, wherein the Plaintiff seeks a judgment of this Court declaring and confirming that the assessment charged by AMFD against Sterling for fiscal year 2024-2025, in the amount of $107,332.74 is void, invalid and unlawful under controlling principles of the Laws and Constitution of the State of Florida.

53. Plaintiff incorporates and realleges paragraphs 1 through 51 above, as though fully set forth herein.

54. A bona fide controversy presently exists between Sterling and AMFD regarding the non-ad valorem assessment in question.

55. The District has failed to satisfy notice requirements for a public hearing on the proposed budget and millage rate as required under Fla. Stat. § 200.065 and Fla. Admin. Code Ann. R. 12D-17.003.

56. The District failed to publish advertisements in a local newspaper in the manner proscribed by Fla. Stat. § 200.065(2)(d) or Fla. Stat. § 200.065(3), or to mail notice to each individual notice under Fla. Admin. Code Ann. r. 12D-17.003. Regardless, the District held the proposed final budget meeting where it approved the proposed millage rate for non-ad valorem tax assessments.

57. The District's actions violated applicable statutes and created a constitutionally inadequate process under which Sterling's procedural due process rights were violated.

58. Based on the tax roll certification, the Tax Collector has issued a tax bill to Plaintiff reflecting this void, erroneous and unlawful assessment.

59. As applied to Sterling, the non-ad valorem assessment at issue violates the procedural due process rights of Sterling due to the defective notice and publication deficiencies evident in the budget proceedings and the new non-ad valorem assessment enacted by AMFD's Board of Directors as detailed above.

WHEREFORE, Plaintiff, STERLING FIBERS, INC., respectfully requests that this Court enter judgment against the Defendants, AVALON BEACH MULAT FIRE PROTECTION, GREG S. BROWN II, in his official capacity as Property Appraiser for Santa Rosa County, Florida, and JAMES A. ZINGALE, in his official capacity as Executive Director for the Florida Department of Revenue, declaring and confirming that the non-ad valorem assessment of AMFD for fiscal year 2024-2025 is void, invalid and unlawful as applied to Sterling, and that Sterling is entitled to a refund of the assessment in question, together with any appropriate supplemental, coercive, additional, or subsequent relief as the Court may determine.

Respectfully submitted this 9th day of May, 2025

/s/ William J. Dunaway

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CERTIFICATE OF SERVICE

I HERBY CERTIFY tht on this 9th day of May, 2025, a true and correct copy of the foregoing was served via the Court's E-Filing Portal, which provides notice to the following counsel of record, upon:

AMY TAYLOR PETRICK
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