

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2023-018115-CA-01

SECTION: CA27

JUDGE: William Thomas

Pedro Cabrera et al

Plaintiff(s)

vs.

CITY OF DORAL, FLORIDA et al

Defendant(s)

_____ /

ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

This matter came before the Court on August 22, 2024, upon cross motions for summary judgment filed both by Plaintiffs Pedro “Pete” Cabrera, Sandra Ruiz, Juan Carlos Bermudez, Michael DiPietro and Juan Carlos Bermudez (“Plaintiffs”) and Defendants City of Doral (“City”), City of Doral City Elected Officials Retirement Plan (the “Plan”), and Administrative Committee, City of Doral City Elected Officials Retirement Plan (“Committee”), (collectively “Defendants”).

FINDINGS OF FACT

The following facts, derived from the record and deemed material to the resolution of the Motion for Summary Judgment, are not in dispute:

On February 10, 2021, the City of Doral adopted Ordinance Number 2021-02 (“ORD. 21-02”), establishing the City of Doral Elected Officials Retirement Plan (the “Plan”), a defined benefit governmental pension plan providing pension benefits, health insurance and life insurance for past, current and future elected officials. Following the passage of ORD. 21-02, the City created a segregated pension fund (“Pension Fund”) in April 2021, initially contributing \$50,000 and retaining Bolton Partners (“Bolton”) for the Plan’s investment management and actuarial services.

In September 2021, the City entered into an agreement with Regions Bank for custodial services for Pension Fund assets and disbursement from it of monthly pension and benefit payments accordingly. The City's Administrative Committee, consisting of the City Manager, Finance Director, and City Attorney, was specifically charged as fiduciaries with sole and exclusive administration of the Plan. The Administrative Committee established an investment policy to satisfy funding for its actuarial liabilities in consultation with Bolton, its professional advisor, which was subsequently adopted by the City Council. Between 2021 and 2023, the City approved multiple audited financial statements and fiscal year budgets reflecting vested benefit and OPEB liabilities and proceeded to make additional contributions to the Plan totaling \$800,000. The amounts recommended by Plan fiduciaries and consultants, and approved by the City Council over the course of nearly three years were based on the actuarial valuation reports conducted by Bolton Partners in October 2021, before any benefits were paid. The reports detailed the Plan's liabilities specifically for Plaintiffs' benefits and determined the City's annual contributions as required by state law, covering both the normal cost as well as paying down of the unfunded accrued liability of vested benefits for each of the Plaintiffs.

Cabrera's elected service concluded in 2022. He qualified for benefits under the Plan and applied accordingly. His benefits were approved by the Advisory Committee, and he then began receiving benefits from the Plan on or about February 2023. Ruiz's elected service concluded in 2016. She qualified for benefits under the Plan and applied accordingly. Her benefits were approved by the Advisory Committee, and she then began receiving benefits from the Retirement Plan on or about February of 2022. Bermudez's elected service concluded in 2022. He qualified for benefits under the Plan and applied accordingly. His benefits were approved by the Advisory Committee, and he then began receiving benefits from the Plan on or about February 2023. DiPietro's elected service concluded in 2012. He qualified for benefits under the Plan and applied accordingly. His benefits were approved by the Advisory Committee, and he then began receiving benefits from the Plan on or about December of 2021.

On June 14, 2023, the City Council for the City of Doral adopted Ordinance Number 2023-16, repealing Ordinance Number 2021-02, “retroactive to the date of its adoption” and further providing, “[a]ccordingly, Article IX Retirement System for Elected Officials, of Chapter 2 of the City’s Code of Ordinances be and the same is hereby repealed.” Prior to 2023, concerns about the validity of the Plan or ORD. 21-02 or the vested status of Plaintiff’s already receiving benefits had never been raised by the City or the Advisory Committee. Sometime in early 2023, the City engaged the law firm of Lewis Longman Walker (“LLW”) to address the unconstitutionality of the Plan. LLW prepared an opinion letter, or legal memorandum dated April 4, 2023, summarizing the firm’s preliminary contingent conclusions with respect to six questions posed by the City. LLW raised concerns in the letter about the Plan’s compliance with state law. LLW recommended engaging a new actuary and consulting with the Department of Management Services (“DMS”) to bring the Plan into compliance. The City, however, proceeded with the Plan’s repeal without following its attorney’s legal opinion despite LLW concluding that, “In my opinion, the findings of the Division and the actuary are vital to making informed decisions going forward.”

On May 1, 2023, at the direction of the City Council, the Admin. Committee voted to adopt and accept the seemingly incomplete LLW Findings, making itself a finding that the plan was now out of compliance and as such benefit payments were stopped effective immediately. After the Admin. Committee’s decision, the City stopped paying benefits to Plan beneficiaries and each of the Plaintiffs received a “Notice of Suspension of Benefits” dated May 11, 2023. Prior to the Notice of Suspension of Benefits letter, each of the Plaintiffs was receiving continuous and uninterrupted benefits afforded by the Plan for nearly two years.

After ORD. 23-15 passed by a 3-2 vote of the City Council, the actions taken by the Defendants effectively terminated the Plan and it stopped the payment of benefits from the Plan to its beneficiaries, stopped the provision of health and life insurance as previously provided by the Plan to its beneficiaries and stopped contribution payments from the City to the Plan. After ORD. 23-15 was enacted and benefits terminated the monies held in custody by Regions, exclusively to fund Plan benefits, remain

undisturbed by the City pending resolution of the present case.

DISCUSSION

The parties both agreed that while the City does have the authority to properly repeal an ordinance or amend a pension plan prospectively for non-vested benefits, the City's authority does not extend to legislative actions which infringe upon *vested* pension rights, as vested pension rights are constitutionally protected under Article I, Section 10, of the Florida Constitution. The Court then, with the agreement of the parties, identified the central issue to be whether the Plaintiffs' rights had vested under the Plan created by ORD. 21-02.

Plaintiffs' Rights Had Vested

The Court here finds that a plain reading of ORD. 21-02, in addition to Defendants' own actions and long past practice in approving, funding, and administering the payment of benefits by the Plan for nearly two years supports a finding that Plaintiffs' rights had vested under ORD 21-02.

A "plain and ordinary" reading of the ordinance's provisions indicate that once an elected official completes eight years serving in their respective capacities as such and satisfies the age requirement specified, they have met all local law statutory requirements and are consequently immediately "vested" in their rights to future promised benefits under the Plan. The language of ORD 21-02 contains no consideration, either explicitly or implicitly, in any way tying the accrual of "service" to the enactment date of the ordinance. As it follows, Defendants fail to point to any plain language in ORD. 21-02 which states that the eight-year "service" requirement must be fulfilled post-adoption. For this Court to adopt Defendants' claim that the "plain reading" of the ordinance entails "service" and "vesting" as being solely tied to the adoption date of the ordinance would require the Court to modify or deviate from its plain language by "reading-in" such a materially substantive new requirement as well as overturn the formal actions of the administrative agency legally charged as the "sole and exclusive" arbiter or interpreter of the ordinance, deeming

its past actions now, somehow, imprudent or unreasonable.

ORD 21-02 clearly defines all terms of art specifically incorporating past tenses and states in relevant part:

- *Elected official shall mean any person **who was elected** in a general or special election to serve as mayor or as a city council member.*
- *Service shall mean the period of time **served** as the mayor or city council member*
- *Any elected official, **who has served** two full terms of office or for a period...*
- *A vested elected official that no longer serves as an elected official...*

(emphasis added)

Furthermore, ORD 21-02 also explicitly created and charged the “Administrative Committee,” as statutory fiduciaries under F.S. 112.656, with the “sole authority” (i.e. not the City Commission) to:

- *construe the provisions of the retirement system **and to determine all questions relating to eligibility and participation; and***
- *determine or have determined and certified the amount of all retirement allowances or other benefits hereunder; and*
- *authorize all payments whatsoever from the retirement fund and to notify the disbursing agent, in writing, or **approve benefit payments** and other expenditures arising through operation of the retirement plan; and*
- *determine or have determined that the retirement system complies at all times with the provisions of state law, both substantively and in operation, including the preparation of all regular and special actuarial reports to be filed with the Florida Division of Retirement.*

(emphasis added)

Fiduciary duties, the highest standard of care afforded under Florida public pension law, requires that the Administrative Committee act solely in the best interests of the participants and beneficiaries of the pension plan. Further, fiduciary actions are premised on “reasonableness” and “prudence” in acting “solely in the best interest of the participants and beneficiaries” of the Plan. It is clear from the factual record and evidence that the Administrative Committee could only reasonably determine, in keeping with their explicit authority under local law, that the Plaintiffs were vested and entitled to benefits. While certain members of the current City legislature may conveniently now have a different opinion, such a belated “new” (and exactly opposite) interpretation cannot simply void or cancel the past near two years of reasonable interpretation, administration and effected benefit payments as legally authorized pursuant to ORD 21-02.

Defendants engaged in various overt actions that affirmatively support the Plaintiffs’ position that the Plan was created legally with the intention to benefit Plaintiffs and that their rights had vested under the Plan. The Administrative Committee was created and selected by the City Council. It was composed of among the highest-ranking members of City administration. Effectively, three different City Attorney’s, two different Finance Directors, two different CFO’s, two different City Managers, and two varying compositions of the City Council, all concluded (and operated for nearly two years) that Plaintiffs were vested and entitled to benefit payments in the amounts each was being paid. Moreover, the City Commission budgeted for and adopted fiscal budgets based on the Plan’s actuarial valuation report setting forth the required contributions funding liabilities premised on Plaintiffs’ entitlement to benefit payments. The Valuation report prepared by Bolton Partners, one of the leading benefits firms in the country, that was commissioned and produced prior to any benefits being paid to Plaintiffs, set forth the required annual contribution on which the City relied upon for three different budget cycles and funded accordingly three different times sets forth explicitly what liabilities are being funded and for

whom: “5 participants – 2 retirees and 3 inactive (not yet in pay status).” The City’s own audit and required filing of “Subsequent Events” as of 9/30/20, states specifically: “On February 10, 2021, the Mayor and Council established a retirement system for elected officials. All retired elected officials that have served a minimum of two full terms or for a period of eight years and have reached retirement age are eligible for benefits.” In fact, the City’s Reso No. 23, dated February 8, 2023, (approving the contract amount and engagement of its pension attorney in seeking repeal of ORD 21-02) specifically states in its first recital clause (i.e. recitals are statements of fact which explain an explicit finding of the legislative body taking action): “WHEREAS, on February 10, 2021, the City of Doral (the “City”) adopted Ordinance 2021-02, establishing a retirement system **for former, current, and future elected officials** (the “Ordinance”).” (emphasis added) Despite Defendant’s new interpretation that Plaintiffs were not vested, it cannot logically negate the overwhelming evidence supporting a finding that the Plaintiffs’ rights had indeed vested. Correspondingly, this Court finds that Plaintiffs’ rights had vested under the Plan created by ORD. 21-02.

Defendants Violated Article I, Section 10 of the Florida Constitution

As it follows, this Court finds that given the fact that Plaintiffs’ rights had vested under the Plan, the Defendants’ termination of the Plan through the repeal of ORD. 21-02 violated Article I, Section 10 of the Florida Constitution. It is well settled that *vested* pension rights are constitutionally protected under Article I, Section 10 of the Florida Constitution enshrined as property and contractual rights and, as such, cannot be retroactively diminished or impaired. Florida Statutes Section 112.61 provides the Legislative intent codifying the well-established public policy that governmental retirement plans must “be managed, administered, operated, and funded in such a manner *as to maximize the protection of public employee retirement benefits.*” (emphasis added).

Further, the Florida Supreme Court has consistently upheld this principle and public policy

in cases such as Fla. Sheriffs Ass'n v. Dep't of Admin., Div. of Ret., 408 So. 2d 1033 (Fla. 1982), where the Court affirmed that once retirement benefits are vested, they can only be altered *prospectively*; and Scott v. Williams, 107 So. 3d 379 (Fla. 2013), where the Court found that while statutory amendments affecting *future* benefits were constitutional, retroactive changes impairing *vested* rights were not. This legal precedent from the state's highest court is clear in establishing that although the City Council may legally amend the terms of ORD. 21-02 for future participants and retirees, even should it choose to legally terminate the plan going forward, it cannot do so for Plaintiff whose rights have already vested, they have retired and have been collecting benefits from the City's retirement plan for nearly two years. The Defendants' actions therefore violated Article I, Section 10 of the Florida Constitution, entitling the Plaintiffs to relief.

Defendants Violated State Laws Designed to Protect Pension Benefits

The Court also finds that the Defendants' actions in repealing and terminating the Plan, rather than bringing it into compliance, constitute clear violations of state laws designed to safeguard pension benefits. Article X, Section 14 of the Florida Constitution, as interpreted in Branca v. City of Miramar, 634 So. 2d 604 (Fla. 1994), unequivocally mandates that governmental pension plans must be funded on a sound actuarial basis at the time of their enactment or any subsequent modification. This constitutional requirement is further codified and implemented through Chapter 112 of the Florida Statutes, specifically within the Florida Protection of Public Employee Retirement Benefits Act (the "Act").

The Court notes that the primary objective of the Act is to ensure the actuarial soundness of pension plans, thereby ultimately protecting the retirement benefits of participants and beneficiaries. Fla. Stat. §112.61 explicitly states this intent, and the statutory framework mandates that the City, as the plan sponsor, comply with several critical requirements. These include the production of regular actuarial reports, maintaining an up-to-date summary plan description, the submission of annual financial statements and other necessary reports to the Department of

Management Services (DMS), and the development of a written investment policy for the Plan. Fla. Stat. §§112.63, 112.66(1), 112.664, 112.661.

It is further established that failure to adhere to these statutory obligations imposes significant consequences on the sponsoring governmental entity. Fla. Stat. §112.63(4)(b) provides that non-compliance may result in the withholding of certain state funds payable to the entity. However, the Court emphasizes that these consequences do not include the invalidation of the pension plan or the cessation of benefit payments to participants and beneficiaries. The Florida Supreme Court, in Branca, clarified that the role of DMS is to ensure compliance and bring plans into conformity with statutory requirements, not to abolish them. This statutory framework is designed to protect participants and beneficiaries in public employee retirement plans and bring plans into compliance, even in instances where the plan sponsor is non-compliant. Fla. Admin. Code R. 60T-1.001(2); Sec. 112.61, Fla. Stats.; City of Wilton Manors v. DMS, 2009 WL 1700323, n. 10 (Fla. Div. Admin. Hrgs. 2009).

In the present case, the Court finds that the Defendants, rather than fulfilling their statutory duties and bringing the Plan into compliance, chose to terminate the Plan by repealing ORD. 21-02. This decision is directly contrary to the purposes and requirements of the Act. The record reflects that the City failed to produce a summary plan description, did not submit the required reports to DMS, and neglected to develop an appropriate written investment policy, all as mandated by law. Instead of addressing these technical compliance issues in accordance with Branca and F.S. 112.63, the City ceased benefit payments, stopped making contributions to the Plan, and ultimately repealed the ordinance terminating its liabilities and all vested benefits of Plaintiffs. Defendants' arguments fail and the Court here agrees with Judge Farmer of the Fourth District Court of Appeal who, dissenting from the opinion ultimately quashed by the Supreme Court in Branca, stated “[t]o deny benefits to a retiree where the plan is un-sound but the city is able to pay is to shoot the patient rather than to find the cure.”

The Court concludes that by taking these actions, the Defendants violated the statutory protections enshrined in the Act, thus entitling the Plaintiffs to relief under Section 112.66(5) of the Florida Statutes.

Application of Equitable Estoppel Against the Defendants

The Court finds that the Plaintiffs have successfully established the necessary elements for equitable estoppel. The theory of estoppel is an application of the rules of fair play. Branca; Town of Largo v. Imperial Homes Corp., 309 So. 2d 571 (Fla. 2d DCA 1975); illustrated in Kuge v. State Department of Administration, 449 So. 2d 389 (Fla. 3d DCA 1984). The Court finds that the Plaintiffs' reliance on the City's actions in enacting, funding, and administering the retirement plan accordingly and paying each of them benefits for nearly two years was both reasonable and detrimental, fulfilling the criteria for equitable estoppel.

The Plaintiffs demonstrated that they relied on the City's retirement plan in making significant and irreversible life decisions, including decisions regarding timing for medical procedures, career alternatives, financial planning and retirement strategy. For instance, the record shows that Plaintiff Cabrera chose to forego additional employment opportunities and seek elected office in retirement, believing his pension would provide financial security for him and his family. Plaintiff DiPietro similarly budgeted to use his pension benefits and payments to fund all of his daily living expenses allowing him to pursue other potentially riskier ventures, a reasonable reliance on the benefits provided by the City. Moreover, as in Branca, Plaintiffs Cabrera and Bermudez retired based on the expectation that the retirement plan would continue to provide the promised benefits they had already been receiving. These circumstances provide situations that mirrored those discussed in Branca and Kuge, however, here the facts are even more compelling as Plaintiff's received payments from the Plan for nearly two years as opposed to the Plaintiff in Branca who retired in mid-April, collected his benefit May 1st and the pension plan affording such was repealed by the City about two weeks later on May 19th. He only received one month of

benefit payments before the plan was repealed whereas here Plaintiffs have necessarily built their families lives around the promised pension benefits they were receiving and expecting to continue to receive. The City's subsequent repeal of the plan, despite funding it for three budget cycles and paying benefits for nearly two years, constitutes a significant and unjust detriment to the Plaintiffs which could not have been foreseen.

In light of the City's actions and the Plaintiffs' reasonable reliance on those actions to their severe detriment, losing hundreds of thousands of dollars in benefits, the Court finds that the application of equitable estoppel is appropriate in this case. The equitable estoppel doctrine lies in equity to bar a wrongdoer from profiting from their misconduct. See *Major League Baseball v. Morsani*, 790 So. 2d 1071, 1077 (Fla. 2001). Here, the Defendants are barred from claiming that the Plaintiffs did not vest, that the Plan violated the statutory bar against extra compensation, and/or that the pensions were illegally paid using retroactive application of a City ordinance after it legally enacted the plan and paid benefits accordingly for nearly two years. The Defendants cannot now claim that the plan was improperly enacted to erase their financial obligations to Plaintiffs, penalizing only them, all without consequence. The City's conduct, as fiduciaries, and the Plaintiffs' reliance on that conduct, justify the invocation of equitable estoppel to prevent the City from denying the promised benefits.

Defendants' Unsubstantiated Claim of Unconstitutionality of ORD. 21-02

The Court further finds the Defendants' arguments that ORD 21-02 was void due to non-compliance with certain actuarial requirements, and that its repeal absolved them of any obligations toward the Plaintiffs unpersuasive. ORD 21-02 was validly enacted and cannot be unilaterally declared void by the Defendants, nor can the repeal of the ordinance retroactively erase the City's obligations thereunder. Established legal principles clearly state that a validly enacted ordinance remains effective until it is judicially declared invalid, and the remedy for any non-compliance with actuarial requirements is to bring the plan into compliance, not to terminate it. Despite the City

Council's new political interpretations of its local law, it cannot dispute the validity of its own prior legal legislative action and the administration of it by the same entity. "While the city seeks to place Branca in a bad light by emphasizing that he was instrumental in the passage of ordinance 88-16, there is nothing in the record which demonstrates that he did anything improper. The city attorney told him the plan was legal, and the actuary put his stamp of approval on it. The ordinance was properly enacted by the city commission as a whole." Branca.

The Defendants' assertion that the Plan was void due to non-compliance with Article X, Section 14 of the Florida Constitution is without merit. The evidence shows that the required actuarial studies and financial statements were prepared, and any minor technical deficiencies could and should have been addressed through statutory avenues. In Branca v. City of Miramar the Supreme Court of Florida emphasized that the proper course of action when a plan is not in compliance is to make the plan actuarially sound, not to stop paying retirement benefits. Additionally, in Turlington v. Department of Administration, Division of Retirement, the Court found that the lack of an actuarial study did not render a plan void. Florida law prioritizes the protection of public employee retirement benefits, and the Defendants' actions in repealing the ordinance were legally incorrect and insufficient to absolve them of their obligations.

Moreover, the Defendants do not possess the legal authority to unilaterally declare an ordinance void. Only a court can invalidate legislative enactments. The Defendants' attempt to use their own non-compliance as a basis for evading their obligations under the plan is both legally and ethically flawed. As articulated in Metro. Dade Cnty. v. Floyd, a government cannot, through legislative action, exonerate itself from a contractually assumed obligation. Therefore, this Court finds in favor of the Plaintiffs, holding that the repeal of ORD. 21-02 does not nullify the City's obligations, and the Plaintiffs are entitled to the continued receipt of their vested pension benefits. The Defendants' actions were wrong, and the Plaintiffs' rights under the validly enacted ordinance must be upheld.

Inapplicability of Fla. Stat. §215.425 to Retroactive Pension Benefits

Further, the Court finds the Defendants' argument that Fla. Stat. §215.425, which prohibits “extra compensation” for past services, bars the Plaintiffs' retroactive pension benefits to be entirely without merit. This argument is not only novel but importantly lacks any substantial legal precedent or support. Accepting the Defendants' interpretation of Fla. Stat. §215.425 as categorically prohibiting retroactive pension benefits would result in far-reaching and unintended consequences, undermining established long settled practices in local governmental pension plans across the state. To allow for such benefits to be voided would effectively unravel local pension plans as well as the Florida Retirement System (FRS). Collective bargaining agreements between agencies and local unions would fail. It would be entirely administratively unfeasible and subject each respective agency, beneficiary and service provider involved with such to protracted and costly litigation perilously disenfranchising countless retirees. It is common for local governments to enact pension benefits that apply retroactively to services rendered before the effective date of the ordinance. Governmental defined benefit plans, by definition, are premised entirely on past service forming the basis for future benefits. One such very common example highlighting the direct conflict with Defendants' theory is seen routinely in local governmental pension plans in the context of cost of living adjustments (COLAs) for retirees.

The Plaintiffs have convincingly demonstrated that retroactive application of pension benefits is a well-established practice supported by numerous local law precedents. For example, the City of Naples enacted Ordinance 23-15085, which retroactively provided a five percent Cost of Living Adjustment to the monthly benefit payments of retirees under the Firefighters' Pension and Retirement System. Similarly, the City of Boca Raton passed Ordinance 5563, which retroactively granted variable Cost of Living Adjustment increases to retirees under the Executive Employees' Retirement Plan. Notably, the “extra compensation” argument proffered by Defendants here was not raised in Branca, despite similar facts, where the Mayor was vested in his benefits for

a recently enacted pension plan calculated on his prior sixteen years of service with the city. These examples illustrate that retroactive pension benefits are not considered "extra compensation" as prohibited by §215.425, but are instead, legitimate legislative actions providing retroactive retirement benefits to eligible retirees.

To adopt the Defendants' interpretation of F.S. §215.425 would not only invalidate the Plaintiffs' claim but also call into question the legality of numerous similar ordinances and state laws providing retroactive retirement benefits. Such a ruling would disrupt long-standing practices and negatively impact retirees who have relied on these retroactive pension benefits and cost of living adjustments. Therefore, the Court rejects the Defendants' argument and affirms that §215.425 does not bar retroactive pension benefits as provided and paid by the Plan and sought by the Plaintiffs in this case.

PLAINTIFFS' ENTITLEMENT TO DECLARATORY, INJUNCTIVE, AND MONETARY RELIEF UNDER FLORIDA LAW

The Plaintiffs have demonstrated their entitlement to declaratory and injunctive relief under Florida law. Specifically, under Sections 112.66 and 86.011, they seek clarification of their rights to past, current, and future pension benefits, which the Defendants unlawfully terminated. The Plaintiffs' rights to these benefits are protected by both the Contracts Clause of the Florida Constitution and the statutory provisions governing Florida public pension rights.

Plaintiffs is awarded:

- a. Awarding Plaintiff's damages – including for the value of all unpaid benefits due with interest – under the terms of the Plan, Section 112.66 of the Florida Statutes, and Article I, Section 10 of the Florida Constitution; and
- b. Declaring that Plaintiffs are entitled to a continuation of all vested benefit payments under

the terms of the Plan, Sections 112.66 and 86.011 of the Florida Statutes, and Article I, Section 10 of the Florida Constitution; and

c. Awarding Plaintiffs their costs under Section 57.041, Florida Statutes; and

d. Awarding Plaintiffs their reasonable attorney's fees to the extent that their recovery constitutes unpaid wages under Section 448.08, Florida Statutes;

Furthermore, the Plaintiffs are entitled to costs and reasonable attorney's fees as prevailing parties under Fla. Stat. §448.08. Although there is no direct case law addressing whether unpaid pension benefits qualify as wages for purposes of fee calculations under this statute, analogous legal precedents strongly suggest that they should be considered as such. For example, in the context of workers' compensation, vested pension benefits are treated as wages. Hillsborough Cnty. Sch. Bd. v. Fliter, 539 So. 2d 1145, 1146 (Fla. 1st DCA 1989). Similarly, federal employment statutes, such as the Equal Pay Act, include deferred retirement benefits within the definition of wages. Weinand v. Dep't. of Veterans Affs. of the State of Ill., 2006 WL 1319809. The same principle applies in federal labor law. Hurd v. Illinois Bell Tel. Co., 136 F. Supp. 125, 134 (N.D. Ill. 1955), *aff'd*, 234 F.2d 942 (7th Cir. 1956). Accordingly, the Plaintiffs' unpaid pension benefits should be treated as wages for purposes of Section 448.08, entitling them to an award of costs and fees as a matter of law and policy.

CONCLUSION

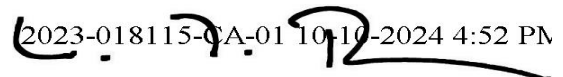
The Court finds in favor of the Plaintiffs, **GRANTING** their Motion for Summary Judgment on both Counts. The City's repeal of ORD. 21-02 and termination of vested pension benefits violate the Contracts Clause of the Florida Constitution and state laws protecting pension rights. The Court concludes that an adverse decision in this case would conflict with existing Florida law and precedent protecting vested pension benefits of public employees. The Court's decision recognizes the sacrosanct nature of public pensions and rejects the erosion of such rights

by potentially offering here a road map for employers and agencies to eliminate pension benefits and escape liabilities by simply taking legislative action to repeal such previously afforded benefits and rights without consequence.

The Plaintiffs are entitled to the payment of their pension benefits retroactive to the date that Defendants discontinued those pensions; to the continuation of their pension benefits in accordance with the provisions of the Plan going forward as previously administered by the City, declaratory and injunctive relief under Sections 112.66 and 86.011. The Defendants' Motion for Summary Judgment is DENIED.

The Court reserves jurisdiction for 30 days to award fees and cost as may be appropriate. Plaintiff is directed to submit a proposed final judgment within 10 dates of the date of this order.

DONE and **ORDERED** in Chambers at Miami-Dade County, Florida on this 10th day of October, 2024.

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2023-018115-CA-01 10-10-2024 4:52 PM

Hon. William Thomas

CIRCUIT COURT JUDGE

Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

CLERK TO **RECLOSE** CASE IF POST JUDGMENT

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