

**IN THE CIRCUIT COURT FOR THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA**

**FLORIDA ASSOCIATION OF REALTORS,**  
a not-for-profit corporation d/b/a  
**FLORIDA REALTORS;** and  
**FLORIDA APARTMENT ASSOCIATION,**  
**INC.,** a not-for-profit corporation,

Plaintiffs,

v.

**Case No:**  
**Division:**

**ORANGE COUNTY, FLORIDA,** and  
**BILL COWLES,** in his official capacity  
as Orange County Supervisor of Elections,

Defendants.

\_\_\_\_\_ /

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**  
**AND FOR WRIT OF QUO WARRANTO**

Plaintiffs Florida Association of Realtors, a not-for-profit corporation d/b/a Florida Realtors (“Florida Realtors”) and Florida Apartment Association, Inc. (“FAA”), a not-for-profit corporation, file this complaint challenging the validity of Orange County Ordinance 2022-29 (the “Rent-Control Ordinance” or “Ordinance”) against Defendants Orange County and Bill Cowles, in his official capacity as Orange County Supervisor of Elections.

**Nature of the Action**

Under Florida law, local governments are generally prohibited from adopting ordinances that would have the effect of imposing rent control. § 125.0103(2), Fla. Stat. A narrow statutory exception authorizes limited rent-control ordinances only upon approval of both the local governing body and the voters, and only where “necessary and proper to eliminate an existing housing emergency which is so grave as to constitute a serious menace to the general public.” *Id.*

In any court action challenging the validity of a rent control ordinance, the burden of proof rests upon the party seeking to have the measure upheld. § 125.0103(6), Fla. Stat.

The Rent-Control Ordinance fails to satisfy this stringent legal standard and therefore violates both section 125.0103 of the Florida Statutes, and Article VIII, section 1(g), of the Florida Constitution. This Court should declare the Ordinance invalid and enjoin its operation.

### **Jurisdiction, Parties, and Venue**

1. This Court has jurisdiction over this matter under article V, section 5(b) of the Florida Constitution and section 26.012 of the Florida Statutes. Venue is proper in Orange County under section 47.011 of the Florida Statutes. Plaintiffs' action for declaratory and injunctive relief is authorized under sections 86.011 and 26.012(3) of the Florida Statutes. This Court has the power to issue writs of quo warranto under article V, section 5(b) of the Florida Constitution.

2. Plaintiff Florida Realtors is a 501(c)(6) trade association headquartered in Orlando whose 225,000 members include residential and commercial agents and brokers, appraisers, real estate counselors, property managers, and other real estate specialists. The mission of Florida Realtors is to support the American dream of homeownership, build strong communities and shape public policy on real property issues. To achieve its goals, Florida Realtors engages in extensive education and advocacy efforts both directly through its staff and in alliance with its local and regional Realtor associations and boards on issues affecting the real estate community and property owners in Florida. Orange County's adoption of the Rent-Control Ordinance has required Florida Realtors to divert its time, staff, and other resources and focus away from its other policy priorities toward efforts to educate and respond to concerns from its members confronted with the adoption of an invalid rent-control measure. Florida Realtors also

brings these claims on behalf of its members, a substantial number of whom will be adversely affected by the Rent-Control Ordinance. The relief requested in this lawsuit—declaratory and injunctive relief and a writ of quo warranto—is of a type appropriate for a trade association to receive on behalf of its members.

3. Plaintiff Florida Apartment Association, Inc. is a 501(c)(6) trade association headquartered in Orlando. The mission of FAA is to represent and advocate the interests of the Florida multifamily rental housing industry. FAA represents a diverse array of apartment property types, amounting to nearly three-quarters of all apartment communities in Florida. To achieve its goals, FAA engages in legislative monitoring and advocacy efforts at the state and local level both directly through its staff and in alliance with its local affiliates on issues impacting the multifamily rental housing industry. Orange County’s adoption of the Rent-Control Ordinance has required FAA to divert its time, staff, and other resources and focus away from its other policy priorities toward efforts to address the adoption of an invalid rent-control measure. FAA also brings these claims on behalf of its members, a substantial number of whom will be adversely affected by the Rent-Control Ordinance. The relief requested in this lawsuit—declaratory and injunctive relief and a writ of quo warranto—is of a type appropriate for a trade association to receive on behalf of its members.

4. Defendant Orange County is a political subdivision of the State of Florida and a charter county governed by a seven-member Board of County Commissioners. Art. VIII, § 1, Fla. Const.; § 7.48, Fla. Stat. The Orange County Board of County Commissioners has the power to enact county ordinances “not inconsistent with general law.” Art. VIII, § 1(g), Fla. Const.

5. Defendant Bill Cowles is the Supervisor of Elections for Orange County and is named as a defendant in his official capacity. Supervisor Cowles is responsible for preparing the

ballots for, and otherwise administering, the referendum election on the Rent-Control Ordinance called for November 2022.

6. All conditions precedent to the filing of this action have been performed or waived.

### **Common Factual Allegations**

#### **A. Statutory Restrictions on Rent Control**

7. For more than four decades, Florida law has imposed significant restrictions on the authority of local governments to adopt ordinances that would have the effect of imposing rent control. Under section 125.0103(2) of the Florida Statutes, “No law, ordinance, rule, or other measure which would have the effect of imposing controls on rents shall be adopted or maintained in effect except as provided herein and unless it is found and determined, as hereinafter provided, that such controls are necessary and proper to eliminate an existing housing emergency which is so grave as to constitute a serious menace to the general public.”

8. Florida law entirely exempts certain categories of rental properties from the application of any rent-control ordinance. No rent controls may be imposed on rents for:

- any accommodation used or offered for residential purposes as a seasonal or tourist unit;
- any accommodation used or offered for residential purposes as a second housing unit; or
- dwelling units located in “luxury apartment buildings,” defined as buildings “wherein on January 1, 1977, the aggregate rent due on a monthly basis from all dwelling units as stated in leases or rent lists existing on that date divided by the number of dwelling units exceeds \$250.”

§ 125.0103(4), Fla. Stat.

9. A local government seeking to adopt a rent-control ordinance must secure two separate approvals. First, the measure must be “duly adopted by the governing body of such entity of local government, after notice and public hearing, in accordance with all applicable

provisions of the Florida and United States Constitutions, the charter or charters governing such entity of local government, this section, and any other applicable laws.” § 125.0103(5)(a), Fla. Stat. Second, the measure must be “approved by the voters” at a referendum election. § 125.0103(5)(c), Fla. Stat.

10. All rent-control ordinances must be time-limited. They “shall terminate and expire within 1 year” and “shall not be extended or renewed except by the adoption of a new measure meeting all the requirements” required for the original adoption of the rent-control ordinance. § 125.0103(3), Fla. Stat.

11. Finally, rent control is authorized only where the governing body of the local government makes and recites findings “establishing the existence in fact of a housing emergency so grave as to constitute a serious menace to the general public and that such controls are necessary and proper to eliminate such grave housing emergency.” § 125.0103(5)(b), Fla. Stat. The local government’s findings and recitations adopted in the ordinance are not accorded any presumptive evidentiary effect. *Id.*

12. In any court action brought to challenge the validity of rent control adopted under section 125.0103, the party seeking to have the measure upheld bears the ultimate burden to prove: 1) the “existence in fact” of a “grave housing emergency” constituting a “serious menace to the general public”; and 2) that the rent-control ordinance is “necessary and proper to eliminate such grave housing emergency.” § 125.0103(6), Fla. Stat.

## **B. Orange County’s Adoption of the Rent-Control Ordinance**

### **1. County Attorney’s Memorandum Addresses Statutory Restrictions on Rent-Control and Applicable Precedents.**

13. On March 8, 2022, Orange County Commissioner Emily Bonilla submitted a memorandum and report to the Orange County Mayor and County Commissioners regarding a

proposed rent-control ordinance to be discussed at the Board's meeting on April 5, 2022. At the request of Mayor Jerry Demings, and in preparation for the Board's discussion, the County Attorney for Orange County prepared a memorandum addressing Florida's statutory restrictions on rent-control measures and relevant judicial precedents. A copy of the County Attorney's Memorandum is attached as Exhibit A.

14. The County Attorney's Memorandum identified the conditions and restrictions imposed on local governments that seek to adopt rent-control measures under the "grave housing emergency" exception. Exh. A at 3. In addition to discussing the procedural restrictions, the County Attorney's Memorandum analyzed the statutory term "grave housing emergency" and traced its origin to the United States Supreme Court's decision in *Edgar A. Levy Leasing Co. v. Siegel*, 258 U.S. 242 (1922). Exh. A at 4-5.

15. The County Attorney's Memorandum also examined the history of litigation in Florida over the City of Miami Beach's attempts to impose rent control in the 1960s and 1970s—actions that immediately preceded the adoption of section 125.0103. Exh. A at 5-6.

16. Based upon a review of these authorities, the County Attorney's Memorandum concluded that it was "unlikely that a shortage of housing, increase in the cost of living, or an inflationary spiral alone are enough to establish 'a housing emergency so grave as to constitute a serious menace to the general public.'" Exh. A at 6-7. *See also id.* at 7 (quoting Florida Supreme Court holding "emergency" is "narrowly defined").

17. Instead, the County Attorney's Memorandum stated that a rent-control ordinance in Orange County would "likely need to contain findings and recitations that are more similar to the *Levy* case":

That there was a very great shortage in dwelling house accommodations in the cities of the state to which the acts apply; that this condition was causing

widespread distress; that extortion in most oppressive forms was flagrant in rent profiteering; that, for the purpose of increasing rents, legal process was being abused and eviction was being resorted to as never before; and that unreasonable and extortionate increases of rent had frequently resulted in two or more families being obliged to occupy an apartment adequate only for one family, with a consequent overcrowding, which was resulting in insanitary conditions, disease, immorality, discomfort, and widespread social discontent.

Exh. A at 7 (quoting *Levy*, 258 U.S. at 246). Stated differently, the findings must establish both the “grave housing emergency” **and** “the effect that the emergency is having on the general public” such as “widespread distress, extortion, flagrant rent profiteering, abuse of the legal process, overcrowding resulting in insanitary conditions and disease, etc.” Exh. A at 7-8.

18. Not only would Orange County need to recite these findings in a rent-control ordinance, the County Attorney’s Memorandum advised that Orange County would need evidence to **prove** the existence in fact of a grave housing emergency in the event of a legal challenge. Exh. A at 8. Orange County would also need evidence to **prove** that its rent-control ordinance “is necessary and proper to eliminate said grave housing emergency.” *Id.*

19. Finally, the County Attorney’s Memorandum noted that there was “no apparent record of any local governments in Florida imposing rent controls pursuant to [section 125.0103] since the Statute went into effect on May 21, 1977. Exh. A at 9.

**2. Orange County Retains Consultants to Evaluate Local Housing Conditions and Effectiveness of Rent-Control Measures.**

20. Following discussion at a meeting on April 5, 2022, Orange County’s Board of County Commissioners instructed staff to retain a consultant to evaluate housing costs and the effectiveness of rent-control measures. Orange County retained a consulting group, The Community Solutions Group of GAI Consultants, Inc. (“GAI”) to evaluate and document local housing conditions to determine whether they rise to the level of an emergency, to estimate the number of units that could be affected by rent-control measures, and to comment on the likely

effectiveness of those measures if implemented. A copy of the Orange County Rent Stabilization Analysis produced by GAI in May 2022 (the “GAI Report”) is attached as Exhibit B.

21. The GAI Report ultimately concluded that the issues driving housing costs in Orange County were “deeply structural and a product of regional and national market influences, likely beyond the control of local regulation.” Exh. B at 3. The issues stemmed mostly from “inadequate housing production over years which a temporary rent ceiling would do little to correct.” *Id.* The GAI Report found that, rather than eliminating a grave housing emergency, rent-control measures consistent with section 125.0103 “may impede the objective of speeding overall housing deliveries as well as create a number of unintended consequences.” *Id.*

22. As to each of the GAI Report’s major findings on the specific issues evaluated, Orange County’s retained consultants reached conclusions inconsistent with the existence-in-fact of a grave housing emergency that would be eliminated by the adoption of a rent-control ordinance. *See* Exh. B at 4-5 (addressing market and social metrics as to evidence of an “emergency”); Exh. B at 5-6 (addressing whether proposed rent-control measures would eliminate the conditions associated with the source of the emergency); Exh. B at 6-7 (addressing likely consequences of rent control measures).

### **3. Orange County Adopts Rent-Control Ordinance Notwithstanding Statutory Restrictions and GAI Report’s Findings.**

23. At a meeting on June 7, 2022, the Orange County Board of County Commissioners was presented with the findings of the GAI Report. Following lengthy discussion, the issue was tabled for further deliberation at a special session.

24. On June 23, 2022, the Board convened in special session and directed staff to begin drafting a rent-control ordinance. The Board reached consensus on the remaining issues



needed to create a full draft rent-control ordinance at a subsequent meeting held on July 26, 2022.

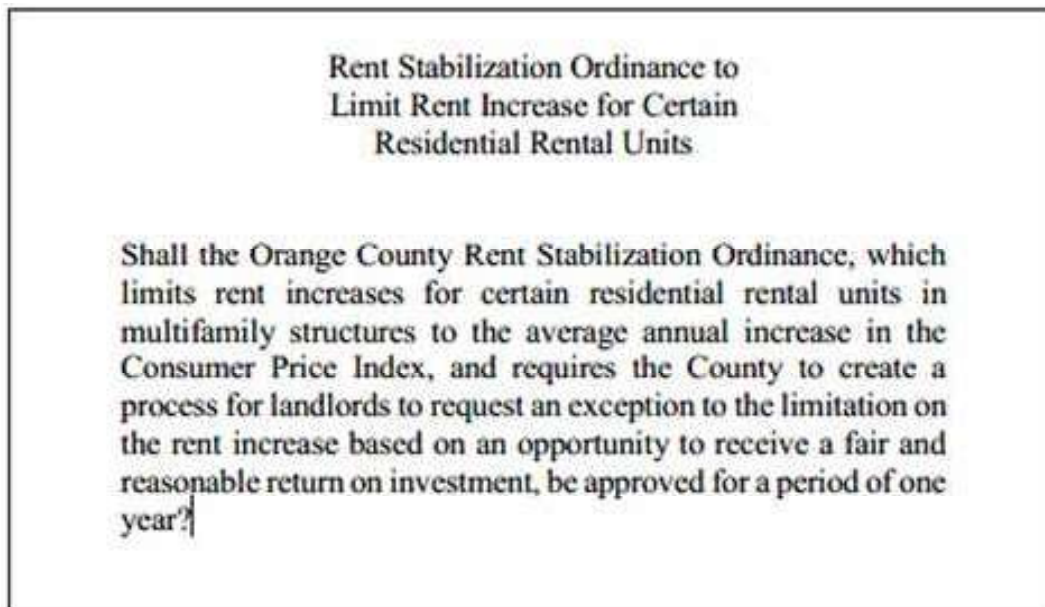
25. The Orange County Board of County Commissioners met again on August 9, 2022. By a margin of 4-3, the Board voted to adopt the Rent-Control Ordinance and to place a referendum on approval before the voters at the November 2022 General Election. A copy of the Rent-Control Ordinance is attached as Exhibit C.

26. The Rent-Control Ordinance has the “effect of imposing controls on rents.” § 125.0103(2), Fla. Stat. Specifically, the Ordinance provides that “[n]o landlord shall demand, charge, or accept from a tenant a rent increase for a residential rental unit more than once in a 12-month period.” Exh. C at 7 (Section 25-384(a)). The Ordinance also provides that “[n]o landlord shall demand, charge, or accept from any tenant a rent increase that is in excess of the existing rent multiplied by the Consumer Price Index for any residential rental unit except as otherwise allowed under Section 25-388 of this Ordinance.” Exh. C at 7 (Section 25-384(b)).

27. A landlord violating the Rent-Control Ordinance is subject to a variety of penalties, including civil citations and fines imposed by the County’s code enforcement board of up to \$15,000 per violation or \$5,000 per day and prosecution resulting in imprisonment in the county jail for a term of up to 60 days. Exh. C at 11 (Section 25-390). The Rent-Control Ordinance also creates a private right of action authorizing any tenant aggrieved by a landlord’s alleged noncompliance to file suit in a court of competent jurisdiction and to recover “actual and punitive damages, reasonable attorney’s fees, interest, costs, or other relief, upon a finding that a violation of this ordinance has occurred or is about to occur.” *Id.*

28. The Rent-Control Ordinance calls a referendum election to be held at the November 2022 General Election to determine whether the Ordinance will be approved by the

voters. Exh. C at 12. Ballots to be used in the referendum election must contain the following ballot statement:



29. The Rent-Control Ordinance includes two sets of findings purportedly establishing the existence-in-fact of a housing emergency in Orange County so grave as to constitute a serious menace to the general public, and that the Rent-Control Ordinance is necessary and proper to eliminate the grave housing emergency. The first set of findings are set out in a series of conclusory recitals that are incorporated by reference:

- WHEREAS, there are approximately 584,000 total housing units in Orange County of which 230,000 are occupied by renters, and according to the 2020 census, Orange County has seen an approximate 25% increase in population since 2010—from approximately 1.15 million people to approximately 1.43 million people; and
- WHEREAS, there is a shortage of dwelling houses and apartments in Orange County, Florida needed to house the current and growing population; and
- WHEREAS, because of the current shortage of housing, the vacancy rate for housing is low; and
- WHEREAS, tenants displaced as a result of their inability to pay increasing rents must relocate, but are unable to find decent, safe, and sanitary housing at affordable rent levels; and

- WHEREAS, some tenants attempt to pay the requested rent increases, but as a consequence must expend less on other necessities of life; and
- WHEREAS, this situation has had a detrimental effect on a substantial number of renters in Orange County creating hardships on senior citizens, persons on fixed incomes, and low and moderate-income households; and
- WHEREAS, a housing emergency so grave as to constitute a serious menace to the general public exists in fact in Orange County; and
- WHEREAS, it is necessary and proper to regulate rents to eliminate such grave housing emergency.

Exh. C at 1-2.

30. The second set of findings purportedly complying with section 125.0103(5)(b) are set out in Section 25-381 of the Rent-Control Ordinance, entitled “Legislative Findings and Purpose.” These findings include:

- There is a shortage, scarcity, and insufficient supply of dwelling houses and apartments in Orange County, Florida. Relative to population, national production of housing units has declined from approximately 0.82 homes per person in the 1970s to approximately 0.45 homes per person in 2019. In Orange County, there is a shortage of as many as 26,500 housing units relative to the County’s need; and
- According to the 2020 census, Orange County has seen an approximate 25% increase in population since 2010—from approximately 1.15 million people to approximately 1.43 million people; and
- There are approximately 584,000 total housing units in Orange County, of which 230,000 are occupied by renters; and
- The shortage of housing is further evidenced by the low vacancy rate for rental properties in Orange County which reached 5.2% in 2021—the lowest on record since at least the year 2000; and
- Inflation, housing prices, and rental rates in Orange County are increasing, accelerating, and spiraling. The Consumer Price Index for All Urban Consumers in the South was 9.2% from May 2021 to May 2022. The median existing home sales price in Orange County was \$275,000 in May 2020 and \$392,500 in May 2022, which represents a 43% increase. Asking rent per unit in the County was \$1,357 in 2020 and \$1,697 in 2021 which represents a 25% year-over-year increase—the highest increase since 2006 when it was 6.7%; and
- The housing conditions have resulted in widespread distress among Orange County

residents. It is estimated that 80.3% of households earning at or below the Average Median Income (AMI) in Orange County are considered “cost burdened” which the U.S. Department of Housing and Urban Development defines to include households who pay more than thirty-percent (30%) of their income for housing and may have difficulty affording necessities such as food, clothing, transportation, and medical care; and

- The widespread distress in housing conditions is further evidenced as Orange County residents were awarded more funds from the State of Florida’s Emergency Rental Assistance Program 1 (“Emergency Program”) than any other county in the state. The Emergency Program has since ended while the County’s housing conditions continue to worsen; and
- Orange County was in a housing crisis prior to the COVID-19 pandemic. In May 2018, Central Florida’s interjurisdictional Regional Affordable Housing Initiative said, “National and regional home prices and rents are pushing well above historic limits when compared to income and affordability. The situation has passed the point of concern and is now a crisis.” The housing crisis has worsened since the COVID-19 pandemic; and
- Tenancies are being terminated and eviction rates are increasing. For the first half of 2022, there have been 6,970 eviction case filings, which is a 70.1% increase over the same period in 2021; and
- The findings made and recited in this ordinance establish the existence in fact of a housing emergency so grave as to constitute a serious menace to the general public; and
- The Orange County Board of County Commissioners finds that this grave housing emergency cannot be dealt with effectively by the ordinary operations of the private rental housing market. In jurisdictions in Florida comparable to Orange County that do not have rent stabilization measures in place, rent increases continue to spiral. For example, in Hillsborough County, Duval County, and Broward County, the year-over-year asking rent has increased by over 20%; and
- Jurisdictions with rent stabilization measures in effect and otherwise comparable to Orange County have been successful in protecting tenants by establishing limits on rent increases while still providing landlords with a fair and reasonable return on their investment. For example, in California, Alameda County and Sacramento County contain rent control measures and have limited their year-over-year asking rent increases to approximately 5%-10% despite low vacancy rates; and
- The Board finds that a rent stabilization measure is necessary and proper to eliminate the County’s housing emergency which is so grave as to constitute a serious menace to the general public.

Exh. C at 2-5.

**C. The Rent-Control Ordinance fails to satisfy the requirements of section 125.0103 and is therefore invalid.**

31. First, the Rent-Control Ordinance fails to establish the existence-in-fact of a “housing emergency so grave as to constitute a serious menace to the general public.” Several of the findings contained in the Ordinance establish no baseline against which a “grave housing emergency” could be measured. *See, e.g.*, Section 25-381(d) (acknowledging approximately 25% increase in the total population of Orange County from 2010 to 2020), Section 25-381(e) (finding approximately 584,000 total housing units in Orange County, of which 230,000 are occupied by renters). The Ordinance fails to explain why these numbers demonstrate a “grave housing emergency” or what different numbers would indicate the absence of a housing emergency.

32. The Rent-Control Ordinance also ignores relevant evidence tending to refute the significance of its findings. For example, the Ordinance focuses on a “70.1% increase” in eviction rates for the first half of 2022 as compared to the first half of 2021 (Section 25-381(k))—but fails to acknowledge the existence of the federal moratorium on evictions during the pandemic that existed throughout the entire first half of 2021.

33. Contrary to the advice provided in the County Attorney’s Memorandum, the Ordinance’s finding of a “grave housing emergency” appears to be premised entirely on statistics addressing vacancy rates, rising rents, a shortage of housing, an increase in the cost of living, and “spiraling inflation.” *Cf* Exh. A at 6-8 *with* Exh. C at 2-5. These findings alone are insufficient to establish a “grave housing emergency” under Florida Supreme Court precedent, as explained in the County Attorney’s Memorandum. Exh. C at 6-8. Orange County cannot satisfy its evidentiary burden of proof.

34. But even if these findings could establish a “grave housing emergency,” the Ordinance contains no findings demonstrating a “serious menace to the general public” as required by section 125.0103(5)(b), Florida Statutes. As noted in the County Attorney’s Memorandum, a rent-control ordinance must include findings addressing the housing emergency’s impact on the health, safety, and welfare of the general public such as “overcrowding” resulting in “insanitary conditions” and “disease.” Exh. A at 7-8. Orange County did not include these findings in the Ordinance and cannot satisfy its evidentiary burden of proof.

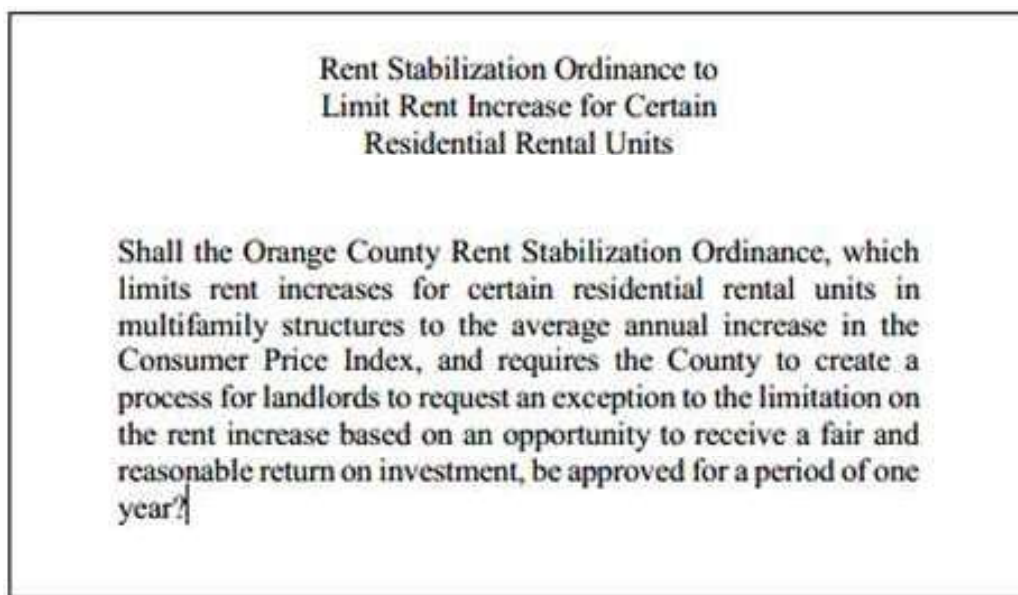
35. Finally, the Rent-Control Ordinance’s findings fail to establish that rent control is “necessary and proper” to “eliminate” the grave housing emergency in Orange County as required by section 125.0103(5)(b). As explained at length in the GAI Report, Orange County’s increased housing costs are “likely beyond the control of local regulation” and stemmed mostly from “inadequate housing production over years which a temporary rent ceiling would do little to correct.” Exh. B. at 3. The GAI Report commissioned by Orange County found that, rather than eliminating a grave housing emergency, rent-control measures consistent with section 125.0103 “may impede the objective of speeding overall housing deliveries as well as create a number of unintended consequences.” *Id.*

36. On this point, the Ordinance’s findings are limited to a conclusory allegation that a “rent stabilization measure is necessary and proper to eliminate the County’s housing emergency which is so grave as to constitute a serious menace to the general public.” Section 25-381(o). Orange County did not include any specific factual findings on this point in the Ordinance and cannot satisfy its evidentiary burden of proof.

**D. The Rent-Control Ordinance’s ballot statement violates section 101.161 and is therefore invalid.**

37. The ballot statement specified in the Rent-Control Ordinance is affirmatively misleading and fails to fairly inform voters of the chief purpose of the proposal in clear and unambiguous language.

38. As described above, the Rent-Control Ordinance requires the following ballot statement to be provided to voters at the November 2022 referendum election:



39. This ballot statement omits any reference to other aspects of the Rent-Control Ordinance that may be significant to voters: separate limitations on rent increases in Section 25-384; the open-ended delegation of authority to Orange County’s Planning, Environmental, and Development Services Department to administer the Ordinance’s rental-unit registration process in Section 25-387; and the Ordinance’s enforcement and penalty provisions including the potential assessment of punitive damages, attorney-fee shifting, civil penalties, and imprisonment in the county jail in Section 25-390.

40. A ballot title and summary must be accurate. The ballot statement provided for the voters in the Rent-Control Ordinance contains omissions and affirmative misstatements that render it defective under section 101.161, Florida Statutes.

**Count 1: Declaratory Judgment – Invalidity of Ordinance  
(against all Defendants)**

41. The allegations in paragraphs 1 through 40 are incorporated by reference.

42. The allegations in this Complaint demonstrate a bona fide actual, present, and practical need for a declaration by this Court that the Rent-Control Ordinance is facially invalid under section 125.0103 of the Florida Statutes and Article VIII, § 1(g) of the Florida Constitution.

43. In the absence of the declaratory relief sought in this action, Plaintiffs and their members would be placed in doubt or uncertainty as to their rights with respect to the Rent-Control Ordinance.

44. The statutory requirement that any rent-control measure be approved by the voters at a referendum election also implicates precedent favoring the prompt resolution of election-related disputes “before the ballots [are] cast and results announced.” *Republican Party of Miami-Dade Cnty. v. Davis*, 18 So. 3d 1112, 1118 (Fla. 3d DCA 2009).

45. It is adverse and antagonistic to the public interest and to the interests of the Plaintiffs and their members to allow the Rent-Control Ordinance to be placed on the ballot or enforced by Orange County where the Ordinance is unlawful and invalid.

46. The adverse and antagonistic interests are all before this Court by proper process and the relief sought is not merely a request for legal advice or an advisory opinion.

**Count 2: Permanent Injunctive Relief – Invalidity of Ordinance  
(against all Defendants)**

47. The allegations in paragraphs 1 through 40 are incorporated by reference.



48. This is a claim for permanent injunctive relief to require:

1) Defendant Bill Cowles, as Orange County Supervisor of Elections, and all others acting in concert with him, to refrain from: conducting the Referendum Election called in Section 3 of Ordinance 2022-29; including the Rent-Control Ordinance on any ballots that are printed for the November 2022 General Election; or tabulating, reporting, or certifying any votes cast for the Rent-Control Ordinance at the November 2022 General Election, on the basis that the Rent-Control Ordinance is facially invalid under section 125.0103 of the Florida Statutes and Article VIII, § 1(g) of the Florida Constitution; and

2) Defendant Orange County, and all others acting in concert with it, to refrain from enforcement of the Rent-Control Ordinance on the basis that the Rent-Control Ordinance is facially invalid under section 125.0103 of the Florida Statutes and Article VIII, § 1(g) of the Florida Constitution.

49. Plaintiffs and their members have a clear legal right to the relief requested. Florida law prohibits local governments from adopting ordinances that would have the effect of imposing rent control except under narrow circumstances not present here. The Rent-Control Ordinance's findings fail to establish "the existence in fact of a housing emergency so grave as to constitute a serious menace to the general public and that such controls are necessary and proper to eliminate such grave housing emergency." § 125.0103, Fla. Stat. The Rent-Control Ordinance is therefore invalid.

50. Plaintiffs and their members face a likelihood of irreparable harm if this Court does not grant the relief sought and allows the Rent-Control Ordinance to appear on the ballot and to be enforced notwithstanding its invalidity.

51. Plaintiffs and their members have no adequate remedy at law to address the harm described in this Complaint, as their injuries cannot be adequately remedied through money damages against Defendants.

52. The public interest strongly favors the entry of a permanent injunction and the resolution of this dispute to prevent the holding of a referendum election or the enforcement of an invalid rent-control measure.

**Count 3: Declaratory Judgment – Invalid Ballot Statement  
(against all Defendants)**

53. The allegations in paragraphs 1 through 40 are incorporated by reference.

54. The allegations in this Complaint demonstrate a bona fide actual, present, and practical need for a declaration by this Court that the ballot statement for the Rent-Control Ordinance fails to comply with section 101.161 of the Florida Statutes.

55. In the absence of the declaratory relief sought in this action, Plaintiffs and their members would be placed in doubt or uncertainty as to their rights with respect to the Rent-Control Ordinance.

56. The statutory requirement that any rent-control measure be approved by the voters at a referendum election also implicates precedent favoring the prompt resolution of election-related disputes “before the ballots [are] cast and results announced.” *Republican Party of Miami-Dade Cnty. v. Davis*, 18 So. 3d 1112, 1118 (Fla. 3d DCA 2009).

57. It is adverse and antagonistic to the public interest and to the interests of the Plaintiffs and their members to allow the Rent-Control Ordinance to be placed on the ballot when its ballot statement violates section 101.161 of the Florida Statutes.

58. The adverse and antagonistic interests are all before this Court by proper process and the relief sought is not merely a request for legal advice or an advisory opinion.

**Count 4: Permanent Injunctive Relief – Invalid Ballot Statement  
(against Supervisor of Elections)**

59. The allegations in paragraphs 1 through 40 are incorporated by reference.

60. This is a claim for permanent injunctive relief to require Defendant Bill Cowles, as Orange County Supervisor of Elections, and all others acting in concert with him, to refrain from: conducting the Referendum Election called in Section 3 of Ordinance 2022-29; including the Rent-Control Ordinance on any ballots that are printed for the November 2022 General Election; or tabulating, reporting, or certifying any votes cast for the Rent-Control Ordinance at the November 2022 General Election, on the basis that the ballot statement for the Rent-Control Ordinance violates section 101.161 of the Florida Statutes.

61. Plaintiffs and their members have a clear legal right to the relief requested. Florida law provides for the invalidation of ballot proposals whose ballot statements fail to comply with the clarity requirements of section 101.161. The ballot statement for the Rent-Control Ordinance is not accurate, is affirmatively misleading, and fails to fairly inform voters of the chief purpose of the proposal in clear and unambiguous language.

62. Plaintiffs and their members face a likelihood of irreparable harm if this Court does not grant the relief sought and allows the Rent-Control Ordinance to appear on the ballot notwithstanding the invalidity of its ballot statement.

63. Plaintiffs and their members have no adequate remedy at law to address the harm described in this Complaint, as their injuries cannot be adequately remedied through money damages against Defendants.

64. The public interest strongly favors the entry of a permanent injunction and the resolution of this dispute to prevent the holding of a referendum election on a measure whose ballot statement violates section 101.161, Florida Statutes.

**Count 5: Quo Warranto  
(against Orange County)**

65. The allegations in paragraphs 1 through 40 are incorporated by reference.

66. This is a claim for a writ of quo warranto to determine that Orange County has improperly exercised its powers derived from the State of Florida by adopting the Rent-Control Ordinance.

67. Orange County lacks the authority to enact county ordinances inconsistent with general law. § 125.01(a), Fla. Stat.; Art. VIII, § 1(g), Fla. Const. Section 125.0103(2)-(6) of the Florida Statutes is a general law limiting the authority of local governments, such as Orange County, to enact ordinances that would have the effect of imposing controls on rents.

68. Orange County exceeded its authority derived from the State of Florida by adopting the Rent-Control Ordinance, as its findings fail to establish “the existence in fact of a housing emergency so grave as to constitute a serious menace to the general public and that such controls are necessary and proper to eliminate such grave housing emergency.” § 125.0103(5)(b), Fla. Stat.

69. Orange County’s failure to act in strict accordance with the requirements of Florida law makes it appropriate for this Court to issue a writ of quo warranto.

70. The requested writ of quo warranto is also consistent with the public interest in ensuring that local governments comply with laws adopted by the Florida Legislature limiting the circumstances under which they can adopt local ordinances.

**RELIEF SOUGHT**

Wherefore, Plaintiffs requests that this Court:

a. Enter a declaratory judgment that the Rent-Control Ordinance is facially invalid under section 125.0103 of the Florida Statutes and Article VIII, § 1(g) of the Florida Constitution

because the Ordinance’s findings fail to establish “the existence in fact of a housing emergency so grave as to constitute a serious menace to the general public and that such controls are necessary and proper to eliminate such grave housing emergency”;

b. Enter a declaratory judgment that the ballot statement for the Rent-Control Ordinance is defective and fails to satisfy the clarity requirements of section 101.161 because it is affirmatively misleading and fails to clearly and unambiguously advise voters of the chief purpose of the proposal.

c. Issue a permanent injunction requiring Defendant Orange County to refrain from enforcing the Rent-Control Ordinance and Defendant Cowles and those acting in concert with him from conducting a referendum election called in Section 3 of Ordinance 2022-29; including the Ordinance on any ballots printed for the November 2022 General Election; or tabulating, reporting, or certifying any votes cast for the Rent-Control Ordinance at the November 2022 General Election, on the basis that the Rent-Control Ordinance is facially invalid under section 125.0103 of the Florida Statutes and Article VIII, § 1(g) of the Florida Constitution.

d. Issue a permanent injunction requiring Defendant Cowles and all others acting in concert with him, to refrain from: conducting the Referendum Election called in Section 3 of Ordinance 2022-29; including the Rent-Control Ordinance on any ballots that are printed for the November 2022 General Election; or tabulating, reporting, or certifying any votes cast for the Rent-Control Ordinance at the November 2022 General Election, on the basis that the ballot statement for the Rent-Control Ordinance violates section 101.161 of the Florida Statutes

e. Issue a writ of quo warranto determining that Orange County has exceeded its authority derived from the State of Florida by adopting the Rent-Control Ordinance and that the Ordinance is therefore facially invalid.

f. Grant such other or further relief the Court deems appropriate, including but not limited to an award of attorney's fees under section 57.112, Florida Statutes, and costs.

Respectfully submitted,

SCOTT A. GLASS (FBN 911364)  
ERIK F. SZABO (FBN 572993)  
300 South Orange Avenue, Suite 1600  
Orlando, Florida 32801  
(407) 423-3200  
*SGlass@shutts.com*  
*ESzabo@shutts.com*

/s/ Daniel Nordby  
DANIEL NORDBY (FBN 14588)  
BENJAMIN GIBSON (FBN 58661)  
**SHUTTS & BOWEN LLP**  
215 South Monroe Street, Suite 804  
Tallahassee, Florida 32301  
(850) 241-1717  
*DNordby@shutts.com*  
*BGibson@shutts.com*

*Counsel for Florida Realtors and Florida Apartment Association*