IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR MARION COUNTY, FLORIDA

DISCOUNT SLEEP OF OCALA, LLC d/b/a MATTRESS WAREHOUSE, individually, and as a Representative of a Class of all similarly situated others, and DALE W. BIRCH, individually and as a Representative of a Class of all similarly situated others,

Plaintiffs,

v.

CITY OF OCALA, FLORIDA, a political subdivision of the State of Florida,

Defendant.
_____/

Case No.: 2014 CA 000426

ORDER GRANTING MOTION TO COMPEL THE CITY TO FUND THE COMMON FUND

THIS CAUSE came before the Court on October 11, 2021, on Plaintiffs' Motion to Compel the City to Fund the Common Fund and Incorporated Memorandum of Law. The Court, having considered said motion, reviewed the Court file, heard arguments of counsel for the parties, heard expert testimony, and being otherwise duly advised in the premises, finds as follows:

A. On June 19, 2020 the Fifth District Court of Appeal ruled that the City of Ocala's fire service fee was an unconstitutional tax in *Discount Sleep of Ocala, LLC v. City of Ocala*, 300 So.3d 316 (Fla. 5th DCA 2020).

B. On January 29, 2021, this Court ordered Defendant, City of Ocala, to establish a common fund, in accordance with the Fifth District Court of Appeal's mandate, in which the Fifth District remanded this case for the establishment of a common fund to refund the illegally collected taxes.

C. The Fifth District's mandate is the final judgment in this case.

D. The Fifth District's opinion resolved all legal issues and properly considered and disposed of all Defendant's defenses.

E. The Fifth District did not remand this case for a new trial, an evidentiary hearing, or to consider additional defenses concerning the amount of the common fund.

F. In light of the Fifth District's decision and mandate, this Court's role is limited to calculating the amount of the common fund and ensuring it is fairly and properly disbursed.

G. The total amount of illegal taxes Defendant, City of Ocala, collected from the Class since February 20, 2010, is $79,282,909.44.

IT IS, THEREFORE, ORDERED AND ADJUDGED that:

1. Plaintiffs' Motion to Compel the City to Fund the Common Fund is **GRANTED**.

2. Defendant, City of Ocala, shall, within 60 days from the date of this Order, deposit $79,282,909.44 into a separate fund (the "Common Fund") to be disbursed upon further order of this Court.

3. The Court reserves jurisdiction regarding all remaining aspects concerning management of this class action, including disbursement of the Common Fund and payment of class representative incentive awards, attorneys' fees and costs, and other expenses.

DONE AND ORDERED in Chambers at Ocala, Marion County, Florida this 13th day of October 2021.

Robert W. Hodges

Honorable Robert W. Hodges
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing will be provided through the e-portal this 13th day of October, 2021.

Carolyn A. Matthews
Judicial Assistant