

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

UNITED TEACHERS OF DADE; and  
KARLA HERNANDEZ-MATS,

CIRCUIT CIVIL DIVISION  
CASE NO.:14-30748 CA 23

Plaintiffs,

v.

CARLOS A. GIMENEZ, in his capacity as  
Mayor of Miami-Dade County, and BOARD OF  
COUNTY COMMISSIONERS OF  
MIAMI-DADE COUNTY, FLORIDA,

Defendants.

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**ORDER GRANTING DEFENDANTS’  
MOTION TO DISMISS AMENDED COMPLAINT, WITH PREJUDICE**

THIS CAUSE comes before the Court for hearing October 26, 2015, on Defendants’ Motion to Dismiss Amended Complaint (“Motion”); and the Court having reviewed the Amended Complaint, Defendants’ Motion, Plaintiffs’ Response, having heard argument of counsel, and being otherwise duly advised, it is hereby

ORDERED and ADJUDGED as follows:

1. Defendants’ Motion to Dismiss is granted. The Amended Complaint is dismissed with prejudice.
2. The Amended Complaint contains five separate counts—two seeking declaratory judgments that Defendants have violated Article IX, Section 1 of the Florida Constitution, one seeking a declaratory judgment that the Defendants have violated Section 129.02(1), Florida Statutes, and two separate counts seeking mandamus.

3. Plaintiffs are not entitled to the declarations sought. The Court finds that the Plaintiffs do not have standing. See *Solares v. City of Miami*, 166 So.3d 887 (Fla. 3d DCA 2015), citing *Ferreiro v. Philadelphia Indem. Ins. Co.*, 928 So.2d 374, 376 (Fla. 3d DCA 2006) (“The issue of standing is a threshold inquiry which must be made at the outset of the case before addressing [the merits].”)
4. The cases cited by Plaintiffs in support of their alleged standing to bring this suit only serve to corroborate the Defendants’ position. Plaintiffs rely on *Escambia County v. Flowers*, 390 So. 2d 386 (Fla. 1st DCA 1980) and *Pinellas County v. Nelson*, 362 So. 2d 279 (Fla. 1978) as cases which purportedly allow Plaintiffs to survive a motion to dismiss. *Flowers* and *Nelson*, however, make clear that those cases addressed the ability of government officials, a county comptroller and a supervisor of elections, respectively, to challenge the lack of funding provided to their offices by the board of county commissioners of each County. At the root of this case are allegations that Miami-Dade County Mayor, Carlos Gimenez (“Mayor”) and the Board of County Commissioners (“Commissioners”) have underfunded and understaffed the Value Adjustment Board (“VAB”) process within Miami-Dade County (“County”), and that the Mayor has breached his duties under Florida Statutes and the County Code to oversee the collection of taxes. Am. Compl. ¶¶ 8-12; 22-52.<sup>1</sup> Based on the allegations in the Amended Complaint, as applied to the case law, the VAB is the only party with clear standing to allege that it is being underfunded.

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<sup>1</sup> Plaintiffs also allege that in at least two consecutive budgets, Defendants have arbitrarily and capriciously deleted necessary expenditures for the VAB process from the County’s General Fund budget. As a result, Defendants have prevented the County’s public school system (“School District”) from receiving the funding set by the Florida Legislature as adequate (an amount which Plaintiffs do not contest). Defendants are causing the teachers and students within the School District to “lose tens of millions of dollars” each school year, a problem that no other County within this state is facing.

5. Mandamus is “dependent upon [the petitioner] showing the existence of a clear legal right on his part, and an indisputable legal duty on the part of the supervisor.” *Sancho v. Joanos*, 715 So. 2d 382, 385 (1st DCA 1998). The writ of mandamus may not be used to establish the existence of an enforceable right, “but only to enforce a right already clearly and certainly established in the law.” *Florida League of Cities v. Smith*, 607 So. 2d 397, 401 (Fla. 1992). The Amended Complaint concedes that the Mayor has already recommended a budget and that the Commissioners have passed a budget. Any analysis of the level of VAB funding within that budget is discretionary by nature and may not form the basis of mandamus relief. As such, even if the Plaintiffs had standing to raise these claims and the Court had the jurisdiction to adjudicate them, the Plaintiffs’ mandamus claims fail because they cannot establish a clear entitlement to a non-discretionary duty.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, on 10/30/15.



BARBARA ARECES  
CIRCUIT COURT JUDGE

**FINAL ORDERS AS TO ALL PARTIES**  
**SRS DISPOSITION NUMBER 12**  
**THE COURT DISMISSES THIS CASE AGAINST**  
**ANY PARTY NOT LISTED IN THIS FINAL ORDER**  
**OR PREVIOUS ORDER(S). THIS CASE IS CLOSED**  
**AS TO ALL PARTIES.**  
**Judge's Initials BA**

The parties served with this Order are indicated in the accompanying 11th Circuit email confirmation which includes all emails provided by the submitter. The movant shall IMMEDIATELY serve a true and correct copy of this Order, by mail, facsimile, email or

hand-delivery, to all parties/counsel of record for whom service is not indicated by the accompanying 11th Circuit confirmation, and file proof of service with the Clerk of Court.

Signed original order sent electronically to the Clerk of Courts for filing in the Court file.