

Property appraiser sues Miami-Dade County over office's independence

By Patricia Mazzei

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Roberto Koltun / El Nuevo Herald

Carlos Lopez Cantera, seen here on Dec. 6, 2012, outside the Stephen P. Clark building in downtown Miami, filed a suit against Miami-Dade County on Tuesday, Aug. 20, 2013, to gain more independent control over his office.

Property Appraiser Carlos Lopez-Cantera sued Miami-Dade County on Tuesday to gain more independent control over his office.

Lopez-Cantera asked the Miami-Dade Circuit Court to rule on how much control, if any, county commissioners and Mayor Carlos Gimenez's administration have over the property appraiser's powers.

"The county attorney has refused to recognize the will of the voters when, in 2008, they overwhelmingly voted to make the county property appraiser an independent, constitutional officer," Lopez-Cantera said. "That is why today I have filed an action with the circuit court to remove any doubts regarding the nature and independence of the office."

County Attorney Robert Cuevas has opined that the property appraiser is essentially an elected department head with some extra powers — but not as many as those awarded to constitutional officers named in the Florida Constitution.

According to Cuevas, the matter was settled in a 2008 lawsuit in which Circuit Judge Gisela Cardonne Ely ruled that the property appraiser was a local — not a constitutional — position under Miami-Dade's home-rule charter. That ruling was never appealed.

But because Miami-Dade voters did not expressly vote on whether the property appraiser would be a constitutional officer or an elected department head, Lopez-Cantera contends the court must still weigh in on that ambiguity.

The ballot question asked if the property appraiser should be "elected and subject to recall by the voters" rather than "appointed and supervised" by the mayor.

In the court filing, Lopez-Cantera's lawyers, Dan Gelber and Jerry Greenberg, argue that voters intended for an independent property appraiser "who would derive authority not

from the whims of politicians or administrators, but directly from the people of Miami-Dade County.”

“The position taken by the County casts a serious doubt over the Property Appraiser’s ability to be truly independent and free from political influence,” the request for declaratory judgment says.

Lopez-Cantera, who was elected last year and took office in January, revealed in June that he planned to take the question to court.

But he could not sue immediately because both he and the government are represented by Cuevas. Last month, commissioners rejected Lopez-Cantera’s request for permission to spend \$50,000 from his office’s roughly \$30 million budget to hire an outside attorney to sue the board.

Instead, Lopez-Cantera formed a nonprofit corporation, Common Sense for Miami-Dade, to pay for the legal retainer with private funds, he said.

Miami-Dade appraiser sues to seek independence as elected official

by Eric Kalis
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Seeking independence as an elected official, Miami-Dade County Property Appraiser Carlos Lopez-Cantera is suing his bosses — the county mayor and commissioners.

Lopez-Cantera filed the lawsuit Tuesday against Mayor Carlos Gimenez and the commissioners in Miami-Dade Circuit Court. The complaint seeks declaratory relief in the form of a judgment establishing the county appraiser as an "independent officer" exempt from "interference and pressure" by other county officials, according to the suit.

The case was assigned to Judge Jose M. Rodriguez. No hearings have been scheduled.

Gelber Schachter & Greenberg partners Dan Gelber and Gerald Greenberg represent

Lopez-Cantera.

"This lawsuit vindicates the voter's belief that they created an independent property appraiser who is accountable to them and only to them," Greenberg said Wednesday.

From 1957 to 2008, Miami-Dade's appraiser served as an appointee

of the county manager. A 2008 ballot measure made the post an elected position, bringing the county in line with 64 of 67 Florida counties. Lopez-Cantera became the second Miami-Dade appraiser in January after defeating incumbent Pedro Garcia last summer.

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Gimenez



J. ALBERT DIAZ

Miami-Dade County Appraiser Carlos Lopez-Cantera has filed suit against the county mayor and commissioners seeking independence as an elected official.