

## Nonprofit arts and culture organization sues Delray Beach over lease termination

*Suit claims officials colluded to kick out Old School Square*

By [Lidia Dinkova](#)



A nonprofit arts and culture organization sued Delray Beach, after officials terminated its lease for city-owned property where it has held its programs since 1989.

Old School Square Center for the Arts also sued Mayor Shelly Petrolia, Vice Mayor Shirley Johnson and Commissioner Juli Casale, who voted to end the lease in August. It also sued City Attorney Lynn Gelin, a former CEO of the nonprofit and a former board member, alleging the board member colluded with elected officials who wanted Old School out and provided proprietary financial information on the nonprofit.

The nonprofit alleges its lease was terminated under the guise of legitimate reasons, under a clause that allows the city to end the agreement without cause. Yet, officials who wanted Old School out have listed a slew of reasons to end the lease, according to the complaint, filed last week in Palm Beach Circuit Court.

“This whole termination was done in bad faith and for reasons that are subjective, based on personal animus and seeking to replace Old School Square with another organization,” said attorney Marko Cerenko, who represents the nonprofit organization.

Old School Square leased the property at 51 North Swinton Avenue, which was formerly Delray Beach Elementary School. Buildings include the Crest Theatre, Cornell Museum, and the site also includes an outdoor music pavilion.

According to the suit, the nonprofit invested more than \$15 million to transform the property, which used to be an “eyesore” of rundown buildings, and to build the outdoor pavilion.

The lease termination has ignited anger by some in the community, who have said it is an important cultural venue in the city. In the complaint, the nonprofit cited a survey that determined Old School is the most widely attended cultural and arts venue in Palm Beach County, with 600,000 visitors annually.

Delray Beach’s spokeswoman declined comment. Petrolia and Shirley Johnson did not respond to a request for comment. Casale called the suit “groundless.”

“The claims against me and my fellow commissioners have been squarely rejected by the Florida courts, with the most recent decision occurring a few months ago in 2021,” she said in an emailed statement.

The relationship between the city and the nonprofit went awry starting in 2013, according to the complaint. A new lease was signed in 2016, which included “onerous” provisions, the suit claims.

Old School alleges that the city essentially wanted to micromanage the nonprofit and restrict its uses. The new lease allowed for a termination without cause.

In a 2018 meeting between Petrolia and Old School founder Frances Bourque, Petrolia cautioned that the nonprofit's financing requests from the city were too large, and that the city could take over the operations and management of the property if fund applications were not reduced.

“The message was clear: Play by my rules, or I will make it very difficult for OSS to function, including OSS's requests for funding” from the city's Community Redevelopment Agency, the complaint states. CRA funding accounted for roughly a quarter of the nonprofit's annual operating budget, according to the suit.

Another issue stems from renovations at the Crest Theatre building. Although Old School had obtained a city permit to do the work, some Delray Beach officials later claimed that commission approval also was needed. Old School disputed this claim.

Delray Beach has opened bidding for a new management organization to take over programming at the site. Proposals are due Dec. 17.

In the meantime, Old School plans to keep providing its programs as best it can, although it had to end performances at the Crest Theatre due to the city mandate to stop the building renovations, Cerenko said.

“It's a shame because it is the citizens who are being harmed in this situation,” he said. “There's less events and programming as a result of the city's actions.”