

*Little Club Condominium Association, v. Martin County*, No. 4D17-2797, 2018 WL 6131492  
(Fla. 4th Dist. App. Nov. 21, 2018)

#### **Fourth DCA Rejects Comprehensive Plan Challenge to Stealth Cell Phone Tower**

In *Little Club Condominium Association v. Martin County*, the Little Club Condominium Association (the “Association”) challenged the trial court’s decision that a cell tower erected in a residential area is consistent with Martin County’s (the “County”) comprehensive plan (the “Plan”) and its code’s stealth requirement.

RG Towers and Kenai Properties sought approval of an eighty-foot cell tower, designed to look like a pine tree. However, the proposed cell tower was to be constructed in close proximity to a residential area. At a quasi-judicial hearing, the Association and a competing cell tower company argued that the proposed design of the tower would not be sufficiently stealthy as is required under the county land development regulations. Despite public outcry, the Martin County Board of County Commissioners (the “Board”) approved the tower.

The Association appealed the Board’s decision, making two claims: (1) the development order approving the cell tower was inconsistent with the county’s comprehensive growth management plan and (2) the Board’s stealth determination was not based on competent substantial evidence. Specifically, the Association was referencing Goal 4.4 of the Plan which provided that the County should aim to “eliminate or reduce uses of land that are inconsistent with community character or desired future land uses.” The trial court ruled for the County, holding that Goal 4.4 was not a proper standard by which to measure the consistency of the development order with the comprehensive plan.

The Fourth DCA agreed with the lower court, stating that the Plan “merely calls for a policy regarding communications towers . . . and does not prohibit particular tower designs.” Since the Plan provisions at issue do not address the required character of communications towers and because the Board made a factual determination that the cell tower would meet the stealth requirement, the Association and competing cell tower company’s arguments failed.