Braden Woods Homeowners Ass'n, Inc. v. Mavard Trading, LTD., No. 2D17-3795 2019 WL 2554144 at *1 (Fla. 2d DCA June 21, 2019).

Second DCA Holds a Petitioner Does Not Always Have to Appeal to the Elected County Commission Before Challenging Local Government Administrative Decisions and Actions in Court

This suit arose when Braden Woods Homeowners Association ("Braden Woods") challenged the building of a freestanding emergency room ("FSER") on a parcel of land that abutted their community. The parcel was in a planned development district, which allowed for retail, office, and residential use. Additionally, the parcel's use classification allowed for the building of clinics, but not hospitals. Mavard is the applicant who wishes to construct the FSER.

The Manatee Board of County Commissioners ("Board") approved Mavard's preliminary site plan as a retail site. However, a manager at the County's building department reviewed Mavard's final site plan and determined that a FSER would not be permitted because it was more similar to a hospital than a clinic. The manager informed Mavard that its plan would need to be amended at a public hearing before the Board. Mavard appealed to the County's building director ("Director") who reversed the manager's decision and administratively approved the final site plan. The Director stated he acted pursuant to a power in the County's code that gave the Director some discretion in classifying uses if there is uncertainty as to how the development should be classified. In this instance, the Director interpreted the FSER to be more similar to a clinic than a hospital. The Director's decision never went before the Board.

Braden Woods took the County to court. The trial court, however, ruled against them because Braden Woods did not exhaust the available administrative remedies. Typically, such administrative decisions must first be appealed to the Board prior to bringing suit. Braden Woods appealed to the Second District Court of Appeals ("Second DCA"), and the appellate court overturned this decision.

The Second DCA held that the Director did not have the authority to administratively approve the FSER. The court interpreted the code to allow the Director interpretive discretion in standard districts, but a different provision in the code expressly prohibited such discretion in planned development districts. The Second DCA went on to hold that a party seeking to overturn the decision of a local administrative official must typically file an administrative appeal before filing a lawsuit. The court, however, held that when that local official engages in an *ultra vires* act, which means the official takes action without the legal authority to do so, there is no need to exhaust administrative approvals before filing suit.