Riverside Heights Development, LLC v. City of Tampa, No. 2D19-918, 2020 WL 5490935 (Fla. 2d DCA Sept. 11, 2020)

Second DCA Holds That Local Governments Must Give Notice and an Opportunity to Submit Proposals When Selling Any Property Located in a Community Redevelopment Area

In 2011, the City of Tampa ("City") issued a Request for Proposals ("RFP") to lease the historic Water Works Building, which was located in a Community Redevelopment Area ("CRA"). In order to meet the statutory requirements governing CRA's, the City gave public notice of the RFP and accepted requests from private developers. Two years later, the City entered into a lease with a developer for the Water Works Building and an adjacent building, the Cable Office, which was also located in the CRA.

Riverside Heights Developments ("Riverside"), upon learning of the lease agreement, filed suit against the City alleging that the City had not followed the requirements under section 163.380, Florida Statute (2020), because the Cable Office was not included in the original RFP. In other words, Riverside argued that the City did not give public notice and an opportunity to submit proposals for the Cable Office. The City argued in its defense that it was not required to comply with section 163 for the lease or sale of the Cable Office because it had "acquired the Cable Office prior to the creation of the CRA." The trial court ruled in favor of the City, agreeing with the City that the CRA requirements did not apply to property acquired before the CRA was created. Importantly, the trial court relied in part on a 2010 Attorney General opinion which concluded that notice requirements "do not apply to real property located within the city's [CRA] which was acquired for purposes other than community redevelopment prior to the creation of the city's [CRA]."

On appeal, the Court reversed the lower court's decision. The Court noted that the Attorney General's opinion incorrectly read the language under section 163.380(3) and failed to apply the plain meaning of "any property." Section 163.380(3) states that "prior to the disposition of *any real property or interest* in a [CRA], [the City] shall give public notice . . . and invite proposals from" private developers. The Court reasoned that the term "any property" applied to all property located in a CRA, rather than only property acquired after the CRA was created. The Court also reasoned that the title of the statute, "Disposal of property in community redevelopment area," further supported that the statute applied to all property in a CRA, not only property acquired after the CRA formed, because "property in community redevelopment area" presumably means all properties in the CRA. The Court reversed the lower court's decision, holding in favor of Riverside.