

*Imhof v. Walton County*, Nos. 1D19-0980 & 1D19-1530 (Fla. 1st DCA Sept. 15, 2021)

**First District Court of Appeal Holds Consistency Challenges under Section 163.3215, Florida Statutes Are Not Limited to Challenges to Use, Density, or Intensity in Direct Conflict with Second District Court of Appeal Case Law**

In *Imhof v. Walton County*, the First DCA evaluated the scope of claims available under an action pursuant to section 163.3215, Florida Statutes. A section 163.3215 action evaluates the consistency between a local government development order and the local government's comprehensive plan. Until *Imhof*, the leading case on this issue was *Heine v. Lee County*, 221 So. 3d 1254 (Fla. 2d DCA 2017), which held that an action pursuant to section 163.3215 was limited to challenges on use, density, or intensity.

In *Imhof*, a developer applied and received a planned unit development ("PUD") approval to construct 141 residential units and 53,000 square feet of commercial space in Walton County, Florida (the "County"). Two landowners and two non-profit corporations specializing in environmental conservation and sustainable development challenged the PUD approval, asserting that the PUD was inconsistent with the County's comprehensive plan. Their claims related to the density and intensity of development, violation of setback requirements within a scenic corridor, violation of buffer requirements, and violation of a sidewalk requirement. The County and the developer asserted that none of these claims were available in a section 163.3215 action because claims must be based on inconsistency with land use, density, or intensity of use. After a multi-day evidentiary hearing, the trial court agreed with the County and the developer.

On appeal, the First DCA reversed, holding that the trial court erred in limiting the scope of claims to only use, density, and intensity. The court, relying rules of statutory interpretation and grammar constructs, analyzed section 163.3215 and determined that there is no reasonable grammatical support for limiting section 163.3215 actions to only use, density, and intensity. The First DCA certified conflict with the Second DCA in order for the Supreme Court to settle this important issue.