

Middle District of Florida Rules That a Citizen Must Exhaust His or Her State Level Appeals of a Local Government Decision Before Bringing a Procedural Due Process Claim in Federal Court

Clewiston Commons purchased property in the City of Clewiston (“City”), which was being used as a mobile home park. The property was zoned residential at the time Clewiston Commons purchased it. Clewiston Commons subsequently sought to rezone the property to commercial, and the City’s Board of Commissioners (“Board”) approved Clewiston’s request. For the following nine years, the City granted Clewiston Commons permits that enabled it to use the property as a mobile home park. The City, however, began to deny Clewiston Commons’ permit applications, and when Clewiston Commons applied for a special exception to repair and replace mobile home units, the Board denied the special exception application.

City Code Enforcement later cited Clewiston Commons for its failure to comply with its commercial zoning designation. Clewiston Commons did not comply with the citations, which resulted in an enforcement hearing where a special magistrate ordered Clewiston Commons to remove all mobile homes and to cease using its property as a mobile home park. Clewiston Commons appealed the special magistrate’s order in state court and filed suit against the City in federal court alleging the City violated its right to procedural due process.

The federal trial court dismissed Clewiston Commons’ procedural due process claim finding that state law provided Clewiston Commons adequate opportunity to seek remedies. The court found unpersuasive Clewiston Commons’ argument that state review of the special magistrate’s order was inadequate because the special magistrate was biased. The court ruled Clewiston Commons would not be able to bring a procedural due process claim until it completed its appeal of the special magistrate’s order even if the magistrate was biased because the special magistrate’s order was not final until the state appeal is complete. Additionally, the court ruled that the existence of a state court remedy also vitiated any argument that the City did not provide a pre-deprivation hearing prior to the Code Enforcement officers’ issuance of a citation. Lastly, the court refused to consider whether the special magistrate hearing provided a “meaningful” opportunity for post-deprivation remedy “because the [mere] existence of a legal remedy for the alleged due-process violation is conclusive” of the existence of a “meaningful” opportunity to receive post-deprivation remedy.