

**Court Holds Neighbor and Community Group Lacked Standing to
Challenge Golf Course Redevelopment**

The Miami-Dade County Board of County Commissioners (the “Commission”) approved a resolution that allowed Kendall Associates I, LLP (“Kendall Associates”) to rezone roughly 170 acres of land (the “Property”) within Miami-Dade County (the “County”). The Property was formerly the Calusa Country Club Golf Course. The rezoning would allow Kendall Associates to construct 550 single family residential units, with several ancillary variances and unusual uses. It would also allow several ancillary variances and unusual uses. The rezoning application was set to be heard at a public hearing before the Miami-Dade County Zoning Board (the “Board”) at their October 19, 2021 meeting. The hearing was cancelled for a lack of quorum and the Commission deferred it to a later date, at which time it heard and approved the rezoning application made before the Board. Petitioners Save Calusa, Inc. (“Save Calusa”) and Amanda Prieto (“Ms. Prieto”) (collectively, the “Petitioners”) challenged the resolution and filed a petition for writ of certiorari, alleging that the County failed to provide the notice required by law for the deferred meeting.

The court found that the Petitioners did not have standing to bring this action. Under Florida law, standing requires that a party show a specific injury and not just a “general interest” that is “no greater than that of other residents.” Because Save Calusa was created after the Commission hearing that approved the rezoning application, it did not suffer a specific injury and thus lacked standing. Ms. Prieto argued that due to her close proximity to the proposed development, her property value was negatively impacted by increased traffic in the neighborhood. The court found that traffic concerns are general in nature and do not create standing.

Even if Petitioners had standing, the court determined that the Commission provided due process, followed the essential requirements of law, and relied upon competent substantial evidence.

Due process generally requires fair notice and a real opportunity to be heard. Petitioners argued that the County failed to provide adequate notice of the rescheduled hearing and as a result due process was not afforded. Notice of the new hearing date was sent by mail to all interested parties within the required half-mile radius, including Ms. Prieto; notices were posted on the entrances to the Commission’s meeting room the day after the hearing was cancelled; and the County’s online calendar was updated to reflect the new hearing date. The court found that the County fulfilled all notice requirements for the hearing upon its initial scheduling, pursuant to Miami-Dade County Code § 33-310 and that the Miami-Dade zoning code imposed no additional requirements for published notice for the rescheduled hearing. The court also deferred to the County’s interpretation of its Code since they are charged with administering and the County’s interpretation should only be disregarded or overturned by the court for the most compelling

reasons. The court further reasoned that even if there was a procedural defect created by the lack of additional notice, Ms. Prieto waived the issue by participating at the hearing and failing to object.

Petitioners argued that the Commission failed to meet the essential requirements of law on two fronts because the rezoning was inconsistent with the County's Code and Comprehensive Development Master Plan. The Miami-Dade County Department of Regulatory and Economic Resources published a Staff Report, which cited to applicable case law, showing that the rezoning of the Property to Planned Area Development (in addition to the ancillary variances and unusual uses) would raise no issues of inconsistency. The court thus held that there was no departure from the essential requirements of law.

Petitioners argued that the Commission's approval for rezoning was not based on substantial competent evidence. The court found that the staff report considered by the Commission, which Florida law recognizes as substantial competent evidence, recommended the approval of the rezoning application. The court found that the testimony of Kendall Associates' experts constituted substantial competent evidence as well. Petitioners offered no expert witnesses to rebut the testimony provided. Thus, the court held that the record contained more than enough competent substantial evidence to support the Commission's decision. Accordingly, the petition for writ of certiorari was denied.