

Fourth DCA Holds Special Damages Are Not Required When Challenging the Process to Enact Development Agreements

Citizens for Responsible Development, Inc., a non-profit, (“CFRD”) and Herbert Simpson (collectively, “Plaintiffs”) challenged the procedures followed by the City of Dania Beach (the “City”) to approve development agreements that allowed Dania Entertainment Center LLC (“DEC”) to expand the Dania Jai Alai pari-mutuel facility (the “Property”). Plaintiffs initially argued that the development agreement was void because the City failed to comply with the process provided in the local land use code as well as provisions of the Florida Local Government Development Agreement Act (the “Act”).

In 2006, the City entered into a development agreement, which included plans to renovate and build a new gaming facility on the Property, with the Property’s then owner. The City Attorney and outside counsel “advised that the pari-mutuel facility was exempt from city regulations.” The Broward County Planning Council (the “Council”), in consult with its attorney and the County Attorney’s office, determined that the proposed uses were permitted under the Comprehensive Plan subject to the City’s review and agreement and satisfaction of applicable requirements set forth in Chapter 550, Florida Statutes, which governs pari-mutuel wagering.

In their complaint, Plaintiffs sought declaratory judgement that the development agreement was void because the development agreement was based on a law that was void as an unconstitutional special law. Pursuant to *Renard*, the court held that because the Plaintiffs challenged the process used to adopt the development agreements, their threshold for standing was lowered from “special damage” to a showing of being “affected.” The court reasoned that CFRD, being a non-profit interested in responsible development in the County, was sufficient to show standing. Additionally, CFRD alleged it had members—including City residents—who were affected by the development. The court further held that, except for the constitutional challenge and excluding their claims against the County, Plaintiffs had standing under section 163.3243, Florida Statutes which provides that “any party aggrieved . . . may file an action for injunctive relief . . . to challenge compliance of the [development] agreement” Accordingly, the court found that the Plaintiffs had standing under the statute. The court also concluded that because Plaintiffs argued that the County failed to “conduct the review process required by county ordinances,” they did have standing to raise the issue against them.