

Fla. Appeals Court Rules For Developer In Zoning Dispute

BY KELLY KNAUB

Law360, New York (April 16, 2014, 7:19 PM ET) -- A Florida appeals court on Wednesday affirmed a ruling in favor of The Related Group in a dispute with a Vizcaya Museum-affiliated group that claimed the developer had conspired with Miami city commissioners to get a never-completed bayside condominium project approved.

In late January, minutes after a Miami jury returned a \$3.1 million verdict in favor of nonprofit group The Vizcayans, Judge Daryl Trawick of Florida's Eleventh Judicial Circuit Court overturned the verdict and ruled for The Related Group. The judge declared judgment despite the jury's verdict just after it had come back with the damages award, which was more than double the amount requested.

The three-judge panel issued the per curiam opinion upholding the ruling without offering an explanation.

"On behalf of our client, we are absolutely delighted that the appeals court quickly and affirmatively upheld the decision of Judge Trawick," John K. Shubin, attorney for The Related Group, told Law360 on Wednesday. "We are grateful to see this matter come to an end."

The nonprofit organization had sued The Related Group and its partner in the project Ocean Land Investments Inc. for \$1.3 million, about the amount The Vizcayans had incurred in legal costs fighting the developers' requested zoning changes for a 300-unit condominium project next to Mercy Hospital and down the street from Vizcaya.

The Vizcayans, which is charged with preserving and fundraising for the Vizcaya Museum and Gardens, objected to the project over concerns the three planned condo towers would obstruct views from the landmark 20th-century villa in Miami's historic Coconut Grove neighborhood.

The dispute's roots can be traced to a 2004 purchase by Ocean Land of a 6.6-acre bayfront parking lot — the only available waterfront land in Coconut Grove — for \$96 million from Mercy Hospital, which planned to use the money for capital improvements. Ocean Land partnered with The Related Group to develop the property.

In 2007, the city commission approved a zoning variance on the land in a 3-2 vote. That decision was later overturned in 2008 by an appellate panel of Florida's Eleventh Judicial Circuit

Court. The land deal was declared dead a few months later.

The Vizcayans sued the city and the developers in June 2007 in an attempt to recover the money spent fighting the zoning changes.

Attorneys for The Vizcayans did not immediately return a request for comment on Wednesday.

The Vizcayans are represented by John R. Hamilton, William E. Davis and Andrea I. Gonzalez of Foley & Lardner LLP.

The Related Group is represented by John K. Shubin, Lucinda A. Hofmann and Deana D. Falce of Shubin & Bass PA and by Israel U. Reyes of The Reyes Law Firm PA.

The case is *The Vizcayans Inc. v. City of Miami et al.*, case number 3D13-601, in the Third District Court of Appeal.

*--Additional reporting by Carolina Bolado.
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