

Judge Rules For Builder In Zoning Row With Museum Group

Minutes after a Miami jury returned a \$3.1 million verdict in favor of a Vizcaya Museum-affiliated group Thursday, a judge overturned the verdict and ruled for developer The Related Group, which had been accused of conspiring with city commissioners to get a never-completed bayside condominium project approved.

Judge Daryl Trawick in Florida's Eleventh Judicial Circuit Court declared judgment notwithstanding the jury's verdict just after the jury had come back with a \$3.1 million damages award — more than double the amount requested — for The Vizcayans, according to the nonprofit group's attorney Stephen Darmody of Foley & Lardner LLP.

The group 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, the nonprofit organization 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.

In closing arguments Wednesday, Darmody told the jury that The Related Group used its considerable financial reserves and connections at city hall to get zoning changes for the project. The Vizcayans claim the developers paid off two local neighborhood associations to get their support and paid two people \$100,000 to influence the vote of one swing city commissioner.

Darmody said the developers denied The Vizcayans their right to an unbiased and fair political process, forcing them to incur \$1.3 million in legal costs fighting the zoning decisions.

"The Vizcayans are confident that the judge's decision will be reversed on appeal," Darmody said Thursday.

Defense attorney Israel Reyes of The Reyes Law Firm PA said in closing arguments Wednesday that the developers' actions were constitutionally protected methods of petitioning the government and said the work was done with the goal of getting the project done, not with the intent to destroy the nonprofit group.

He also argued that The Vizcayans were not forced to litigate, and that they had created the conspiracy in an attempt to get money damages out of the defendants.

"I am so glad to have our clients cleansed of the stigma from these allegations," The Related Group's attorney John Shubin of Shubin & Bass PA told Law360 on Thursday.

"On behalf of our clients, I am delighted to see them vindicated."

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.

An attorney for the developers could not immediately be reached for comment Thursday.

The Vizcayans are represented by Stephen Darmody and William Davis of Foley & Lardner LLP.

The defendants are represented by Israel Reyes of The Reyes Law Firm PA and by John Shubin of Shubin & Bass PA.

The case is *The Vizcayans v. The City of Miami et al.*, case number 2007-17332-CA-01, in the Eleventh Judicial Circuit Court of Florida.