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Judge throws out \$3.1 million award against Related developers

The jury found that the company had wrongfully manipulated the zoning process in a condo deal, but the judge said the developers' actions did not target a group that fought the zoning change and had sued for the money it had spent.

BY SCOTT HIAASEN

A Miami-Dade judge on Thursday tossed out a \$3.1 million verdict against The Related Group developers only moments after a jury found the developers had wrongfully manipulated the zoning process in a 2007 condo deal.

The decision came after a month-long trial in a lawsuit filed by the Vizcayans, a support group for the Vizcaya Museum and Gardens, who had accused Related and its partners of engaging in a conspiracy to win political support for a controversial waterfront condo project next to Mercy Hospital in Coconut Grove. The Vizcayans were seeking more than \$1.3 million to recover the legal costs of their successful fight to overturn the Miami City Commission's approval of the project.

The jury sided with the Vizcayans, finding that the developers committed more than two dozen wrongful acts in pursuit of the projects — from behind-the-scenes meetings with city commissioners to secret deals to pay \$8 million to win the support of nearby neighborhood groups.

But Miami-Dade Circuit Judge Daryl Trawick later threw out the jury's verdict and found in favor of the developers. He said the Vizcayans failed to prove that the developers' actions "targeted" the Vizcayans, and added that the developers' conduct was allowed under their rights to petition the government and go to court.

Related's lawyers, John Shubin and Israel Reyes, argued that the developers' actions were aimed only at winning approval for the three-tower project, not at harming the Vizcayans. Related's chairman, Jorge Perez, told jurors he was "totally surprised" when the Vizcayans publicly objected to

the project. The Vizcayans feared the condo towers would obstruct views from the Vizcaya, a historic landmark.

Shubin and Reyes argued that the verdict would have essentially punished the developers for exercising their rights to petition the government for zoning and land-use changes.

"For a judge, doing the right thing and following the law are one in the same, and that's what Judge Trawick did in this case," said Reyes, himself a former judge.

But Maria Utrera, the jury foreperson, said she was puzzled by the judge's decision, which left some jurors weeping when they learned of it later.

"I'm really upset about it. I think that justice was not served," said Utrera, a computer programmer from Homestead. "We think they did manipulate the political system. The evidence showed that what they did was wrong."

Lawyers for the Vizcayans said they were disappointed with the judge's ruling, and they plan to appeal the judge's decision.

"The jury agreed with us totally," said Vizcayan board member John Hinson. "I would like to think the jury's verdict sends a message throughout the community that the actions by these defendants are wrong and shouldn't be tolerated."

The Vizcayans' lawsuit was brought under a novel legal theory known as the "wrongful acts" doctrine. They argued that the wrongful acts of the developers forced them to go court to challenge the city's zoning changes for the project. An appeals court later found that the zoning changes violated state law, and that the vote was tainted by improper communications between Perez and then-Miami Mayor Manny Diaz.

But Shubin said Florida courts have never allowed a civil conspiracy claim like the one filed by the Vizcayans. He argued that the case should be dismissed because the Vizcayans could not show that the developers owed any duties to the Vizcayans that were broken.

"I am so glad to have our clients cleansed of the stigma from these allegations," Shubin said.

To make their case, the Vizcayans' lawyers pieced together the backroom maneuvering before and after the city commission voted to approve the condo project in April 2007.

They displayed e-mails from a Related vice president who said he had confirmed that three commissioners would approve the project — three months before the final vote. They also discovered that the developers had offered \$8 million to two Coconut Grove neighborhood groups, Bay Heights and Natoma Manors, in secret agreements to win their approval for the project.

The Vizcayans also argued that the developers hired friends of Commissioner Michelle Spence-Jones as consultants in an effort to win her support, and also hired a City Hall staffer to help get the project approved.

After the Vizcayans publicly opposed the project, the developers deployed a lobbyist to Miami-Dade County Hall in an effort to cut off funding for the organization's legal fight against the project, Darmody said. The Vizcayans are a private nonprofit with a fundraising contract with the museum, which is owned by the county and governed by a board of trustees.

Utrera said the jury believed this was more than enough evidence of wrongdoing by the developers.