

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Payne v. City of Miami

53 So. 3d 258 (Fla. 3d DCA 2010) · Decided December 8, 2010

SUMMARY

The Florida Third District Court of Appeal reviewed a challenge to Miami's approval of a comprehensive-plan future land-use-map amendment allowing a residential condominium development on Miami River waterfront property. The court held that the administrative law judge failed to consider relevant policies in the Miami Comprehensive Neighborhood Plan and Miami River Master Plan and made material findings unsupported by competent, substantial evidence. The court therefore reversed the agency decision, concluding that the amendment was inconsistent with the applicable planning documents.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Rothenberg, J.; Ramirez, C.J.; Gersten, J.; Wells, J.; Shepherd, J.; Suarez, J.; Cortiñas, J.; Lagoa, J.; Salter, J.
JURISDICTION	Florida
DECIDED	December 8, 2010
DISPOSITION	reversed
PROCEDURAL POSTURE	The appellants appealed a final order of the Florida Department of Community Affairs adopting an administrative law judge's recommended order upholding a City of Miami ordinance approving a small-scale amendment to the Future Land Use Map. The appeal was decided under Florida's Administrative Procedure Act.
STANDARD OF REVIEW	Under section 120.68, Florida Statutes, agency action may be set aside or remanded when findings are unsupported by competent, substantial evidence, the agency materially errs in procedure, or the agency erroneously interprets the law. Amendments to a local government's comprehensive plan are legislative and are reviewed under the fairly debatable standard.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Captain Herbert Payne, Durham Park Neighborhood Association, Inc., Miami River Marine Group, Inc. v. City of Miami, Riverside 22

TOPICS

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QUESTIONS PRESENTED

1. Whether the ALJ and Department erred by failing to consider the Port of Miami River subelement of the City's Comprehensive Plan in evaluating the Future Land Use Map amendment.
2. Whether the Future Land Use Map amendment was inconsistent with the City's Comprehensive Plan and Miami River Master Plan because it permitted a non-water-dependent residential use on land reserved for waterfront industrial purposes.
3. Whether the agency's material findings were unsupported by competent, substantial evidence.
4. Whether the proceedings were materially impaired when the ALJ precluded relevant evidence and argument concerning the amendment's inconsistency with the City's planning documents.

HOLDINGS

1. The Port of Miami River subelement was applicable to Riverside's property and Future Land Use Map amendment. The term 'Port of Miami River' was not limited to the fourteen shipping companies identified in the original 1989 plan; it encompassed the water-dependent and water-related marine activity and supporting industries along the Miami River.
2. The amendment was inconsistent with the City's Comprehensive Plan and Miami River Master Plan because it converted waterfront-industrial land reserved for water-dependent and water-related uses into a designation permitting residential development, resulting in an incompatible use and a loss of land available for the working waterfront.
3. The agency's material findings were unsupported by competent, substantial evidence, including findings concerning the property's location, neighborhood character, housing needs, economic effects, concurrency, and consistency with the Comprehensive Plan.
4. The ALJ materially erred by precluding the appellants from presenting evidence and argument concerning the amendment's inconsistency with the Port of Miami subelement and by failing to consider relevant portions of the Comprehensive Plan and Miami River Master Plan.

KEY QUOTATIONS

"We therefore reverse." (288)

"If the City's vision for the Miami River has changed, then that change should be clearly reflected in its Comprehensive Plan to provide industries and land owners along the Miami River with fair notice." (288)

FACTUAL BACKGROUND

Riverside owned a 4.3-acre waterfront parcel on the Miami River that was designated Industrial and zoned SD-4.2 Waterfront Industrial. It sought and received a small-scale Future Land Use Map amendment, rezoning, and Major Use Special Permit allowing two twelve-story residential condominium buildings containing 633 units. The parcel was surrounded by marine-industrial businesses and was part of a working waterfront that the City's Comprehensive Plan and Miami River Master Plan sought to preserve for water-dependent and water-related uses. The appellants challenged the amendment, asserting that it conflicted with the City's planning documents, waterfront protections, and applicable statutory requirements.

PROCEDURAL HISTORY

Riverside obtained approval for a Future Land Use Map amendment changing the property designation from Industrial to Restricted Commercial, a rezoning from SD-4.2 Waterfront Industrial to C-1 Restricted Commercial, and a Major Use Special Permit for a 633-unit residential development. The appellants challenged the ordinance before the Division of Administrative Hearings. The ALJ issued a recommended order, which the Department adopted. The Third District withdrew its prior opinion, denied Riverside's rehearing motion, and issued this replacement opinion reversing the Department's order.

DISPOSITION

reversed

CASES CITED

- Coastal Development of North Florida, Inc. v. City of Jacksonville Beach, 788 So. 2d 204 (Fla. 2001)
- Martin County v. Yusem, 690 So. 2d 1288 (Fla. 1997)
- City of Jacksonville Beach v. Coastal Development of North Florida, Inc., 730 So. 2d 792 (Fla. 1st DCA 1999)
- Payne v. City of Miami, 927 So. 2d 904 (Fla. 3d DCA 2005)
- Payne v. City of Miami, 52 So. 2d 707 (Fla. 3d DCA 2010)
- Durham Park Neighborhood Ass'n v. City of Miami, 32 Fla. L. Weekly D2538 (Fla. 3d DCA Oct. 24, 2007)