



News

Trial Spotlight: Complete Victory Achieved on Behalf of Petitioner in Challenge to "Revised" Building Permits for Oceanfront Property in Florida's Sugarloaf Key

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A Hinshaw legal team in Miami recently secured a complete victory in an administrative challenge brought by a neighbor to revised single family residence (SFR) building permits which had been approved in an apparent "private and unrecorded agreement" between Monroe County building official Rick Griffin and the permit applicant. Hinshaw partner Ira Gonzalez and associate Danny Fors represented the petitioner in the case.

The case centered on two revised SFR building permits that were issued in 2017 and 2018, even though they violated existing floodplain management and building code regulations at that time. The permit revisions had sought to update a building permit originally granted in 2010, prior to changes in Florida's building code regulations. However, the revised building plan in fact involved a complete redesign from the previously permitted building design, and as such should not have been treated as a revision of the 2010 permit.

After initially taking the position that the proposed permit revisions were essentially a new permit application that would need to comply with current building code regulations, testimony indicated that Griffin subsequently came to a private, unrecorded agreement with the permit applicant that the 2017 permit revisions—although noncompliant with existing building code regulations—could be grandfathered in under the 2010 permit, notwithstanding that the revisions stated on their face they were compliant with the 2017 standards.

Under the applicable land development code, when an appeal to a permit is filed an automatic stay is triggered prohibiting all permit activity and proceedings that are subject to the appeal. Notwithstanding this, Monroe County did not enforce a stay after Hinshaw's client filed his challenge, and construction proceeded. As a result, according to the Administrative Law Judge, the permit applicant "proceeded to build with actual knowledge that it was doing so at its own risk, given that [the] appeal might result in the revocation of the Revised Permit," and there is now "an illegal structure" near completion next door to Hinshaw's client.

Noting "it cannot be stressed enough just how bad the optics are here," the Judge ruled that the decision by Griffin to issue the Revision permits must be reversed, and the permits vacated. Two elevation certificates were also reversed.

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In press coverage, Gonzalez noted that the failure by Monroe County to enforce applicable building codes potentially jeopardize all Keys property owners participating in the National Flood Insurance Plan. While the County recently touted in a press release its efforts to keep flood rates affordable, allowing construction in clear violation of existing floodplain management regulations put those efforts at risk:

"It is now public knowledge that the county had communicated compliance with the code that the property never complied with," Gonzalez said. "This will have long-lasting effects, not only in the way the county carries itself in enforcing the flood plain regulations, but how it reviews permits in general."

Media coverage on the ruling included:

- ["Neighbor dispute gets costly,"](#) *The Key West Citizen*, March 10, 2021 (*subscription required*)
- ["Attorney: New Florida Ruling Could Have Lasting Impact on Real Estate Sector,"](#) *Daily Business Review*, March 3, 2020 (*subscription required*)

The case is *Dalk Land LP v. Monroe County Planning Commission and Peter G. and Elizabeth Giampaoli, individually and as trustees of the Giampaoli Family Trust*, DOAH Case Nos. 17-3578 and 20-2039.