

**Second DCA Finds No Compensable Taking for the State’s Elimination of Taxi Cab Permit Special Legislation**

On October 7, 2022, the Second DCA affirmed the trial court’s holding that there was no compensable inverse condemnation claim for the State of Florida’s elimination of special legislation granting taxi cab drivers a transferrable “property interest” in their permits. In 1976, the State of Florida enacted special legislation for Hillsborough County, creating what was later named the Hillsborough County Public Transportation Commission (the “PTC”). In short, the PTC was empowered to create and maintain a capped taxicab market in Hillsborough County, which was accomplished by issuing certificates of public convenience and taxicab permits (collectively, “medallions”) to qualified drivers. Participation in this closed market was conditioned upon receipt of a valid medallion.

A 2012 amendment to the special legislation granted medallion holders property rights in their medallions, allowing them to transfer their medallions to otherwise qualified individuals. The statute expressly designated the medallions as “private property.” In 2017, the State dissolved the PTC, and Hillsborough County’s replacement ordinance did not recognize or grandfather in the medallions issued by the PTC. Thus, the medallion system was effectively eliminated, and all medallions were “rendered worthless.” Various transportation companies (collectively, “Taxicab Companies”) filed a complaint against the State and Hillsborough County, alleging an unlawful taking.

The Second DCA began its inverse condemnation analysis by noting that the plaintiff must first demonstrate that “he possesses a ‘property interest’ that is constitutionally protected.” At the outset, the court held that privileges and licenses are not constitutionally protected. The court cited case law establishing that permits and licenses to operate taxicabs are considered privileges. The fact that the 2012 legislation labelled the medallions as “private property” did not transform the license into something that is protected by the Takings Clause.

The court discussed the history of the PTC, noting that the regulatory scheme creating the PTC had been altered several times since its inception in 1976. The medallion holders were always subject to the regulation of the PTC, and the Florida Legislature always retained the power to change or abolish the regulatory framework that created privilege. If government entities could create private property rights by merely labelling something “private property,” then future legislatures would be required to “regulate by purchase” anytime such a regulatory scheme was changed.

The Second DCA noted that while state law typically creates or defines *property rights* for the purposes of the Takings Clause, state law does not create the *property interest* itself. For a valid regulatory takings claim, property owners usually have a *preexisting* property interest that predated the regulation at issue. Here, the special legislation created the property interest itself. That interest would not exist without the special legislation—as a result, there was no valid property interest for subsequent regulation to take. Thus, the court held that there was no cognizable property interest in the medallions for a valid regulatory takings claim.