

*Citizens for Responsible Dev., Inc. v. City of Dania Beach, 4D21-1306, 2023 WL 1999800 (Fla. 4th DCA Feb. 15, 2023)*

**Fourth DCA Holds Generalized Traffic Concerns Do Not Satisfy Heightened “Special Damages” Requirement for Standing to Challenge a Zoning Approval**

In 2006, the City of Dania Beach (the “City”) entered into a development agreement with a pari-mutuel facility owner to build a new gaming facility. The Dania Entertainment Center (“DEC”) subsequently purchased the property from the pari-mutuel facility owner. In 2011, the DEC requested to amend the existing development agreement to add a marina, commercial retail, a new casino, and two hotel towers, which was later approved by the City.

Citizens for Responsible Development (“CFRD”) and Herbert Simpson (“Simpson”) (collectively, “Plaintiffs”) sued the City for declaratory and injunctive relief, claiming that the amended development agreement was void because the City failed to comply with local zoning ordinances. CFRD alleged that its membership included Dania Beach residents, who were adversely affected by the development agreement's proposed expansion. The complaint also alleged that Simpson was a legally blind resident living within one mile of the pari-mutuel facility. While this action was ongoing, in 2014, DEC applied for a “second amended agreement,” which added a parking garage and banquet hall. The second amended agreement was also approved. The trial court ultimately granted summary judgment in favor of the City on standing grounds. The court found the Plaintiffs lacked standing because they failed to show an “injury-in-fact.” Specifically, the court found CFRD failed to demonstrate associational standing by showing a “substantial number of its members were substantially affected by the approval of the redevelopment.” The court found neither plaintiff met the standing requirement. From this order, the CFRD and Simpson filed a timely appeal.

On appeal, the only question raised was whether CFRD or Simpson had standing. The Fourth DCA held Simpson did not have standing because Simpson lived nearly a mile from the project and his concern of increased traffic was not a “special damage different in kind” from the general community. The Fourth DCA also held that CFRD lacked standing because there was no record evidence that a substantial number of its members were or would be substantially affected by the project. CFRD relied upon Simpson’s alleged injury and suggested that another one of its members lived within 300 feet of the facility. Because Simpson lacked standing, CFRD likewise lacked standing.