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Elizabeth J. Neumont v. State of Florida, Monroe County

SC06-1204

THE NEXT CASE WE WILL
DISCUSS WILL BE PRESENTED
NEUMONT v. STATE OF FLORIDA,
MONROE COUNTY.

>> GOOD MORNING, YOUR HONOR,
ERIC GRANT FOR THE
PLAINTIFF'S APPELTS.

>> MR. GRANT YOUR FIRST
APPEARANCE IN THE FLORIDA
SUPREME COURT IS IN.

>> YES, YOUR HONOR.

>> WELCOME TO THE COURT AND
I LOOK FORWARD TO HEARING
YOU.

>> THE 11th CIRCUIT HAS
ASKED THIS COURT TO
DETERMINE WHAT IS A
SUBSTANTIAL OR MATERIAL
CHANGE IN A PROPOSED
ORDINANCE DURING THE
ENACTMENT PROCESS, THAT IS,
THE KIND OF CHANGE THAT
WOULD REQUIRE A COUNTY TO
START THE PROCESS OVER.

PLAINTIFF SUBMIT THAT THE
LEGISLATURE HAS ANSWERED
THIS QUESTION IN THE TEXT OF
FLORIDA STATUTE, SECTION
125.66.

WHICH IMPOSES HEIGHTENED
NOTICE AND MEETING
REQUIREMENTS WHENEVER A
COUNTY PROPOSES TO CHANGE,
QUOTE, THE ACTUAL LIST OF
PERMITTED CONDITIONAL OR
PROHIBITED USES WITHIN A
ZONING CATEGORY, UNQUOTE.
A LONG TIME EQUIVALENCE IN
FLORIDA JURISPRUDENCE
BETWEEN THE< CIRCUMSTANCES IN
WHICH THESE REQUIREMENTS ARE
CONSIDERED AND THE
CIRCUMSTANCES IN WHICH THE

ENACTMENT PROCESS MUST BEGIN ANEW COMPELS THE CONCLUSION THAT A LEGISLATIVE CHANGE IS SUBSTANTIAL OR MATERIAL IF IT ALTHERS ACTUAL LIST OF PROPOSED CONDITIONAL OR PROHIBITED USES WITHIN --

>> NOW THE STATUTE DOESN'T REQUIRE THAT THE NOTICE IDENTIFY THE ACTUAL CHANGES. CORRECT, IT'S ONLY THE TITLE SO LET'S SAY YOU HAVE 20 DIFFERENT CHANGES TO, TO THE ORDINANCE, REGARDING CHANGING SOMETHING FROM PERMITTED TO CONDITIONAL AND THEN AFTER A HEARING,IOSAY WELL WE'RE ONLY GOING TO MAKE 90 OF THOSE CHANGES. WE'RE GOING TO DELETE ONE. THEY SEND THE SAME NOTICE. THE NOTICE DOESN'T INFORM ANYBODY ABOUT THE CHANGE. ALL -- IT'S JUST GOING TO HAVE THE TITLE. SO NOBODY IS GOING TO KNOW WHEN THEY SEE THAT NOTICE WHAT THE CHANGES ARE, WHAT THE PROPOSALS ARE. THEY'RE JUST GOING TO THINK IT'S THE SAME THING THAT THEY, THEY PUBLICIZED BEFORE.

SO WHAT'S THE PURPOSE OF REQUIRING AFTER EVERY SMALL CHANGE GO BACK AND ALL YOU ARE DOING IS LISTING THE SAME TITLE IN THE NOTICE.

>> YOUR HONOR, YOUR PURPOSE IS, AS THIS COURT HAS EMPHASIZES AND AS THE LEGISLATURE HAS PUT INTO THE TEXT OF THE STATUTE TO FOSTER CITIZEN PARTICIPATION, TO FOSTER DELIBERATION IN THE LEGISLATIVE PROCESS, AND I THINK WHAT, WHAT WE'RE LOOKING AT IS A SITUATION WHERE WHERE CITIZENS GET NOTES AND THEY PARTICIPATE IN A FIRST HEARING. AND THEY, THEY REALIZE THAT SOMETHING HAS BEEN PROPOSED

TO TO BE MADE PERMISSIBLE OR
TO BE MADE PROHIBITED.
AND THAT'S THEIR EXPECTATION,
THAT'S WHAT THE COMMUNITY
UNDERSTANDICIZE BEING ACTED
UPON, AND IF THAT CHANGES,
WHAT THE LEGISLATURE HAS
SAID, IS THERE NEEDS TO BE
THIS ADDITIONAL DELIBERATION.
>> WELL, LET'S LOOK IN THIS
CASE.

THE ORDINANCE TITLE
PUBLICIZED INCLUDING
VACATION RENTALS IN ALL LAND
USE DISTRICTS.
RIGHT?

>> I BELIEVE THE FIRST
NOTICE DID NOT SAY LAND USE
DISTRICTS.
THE FIRST NOTICE REFERRED TO
RESIDENTIAL DISTRICTS.
IT WAS ONLY THE SECOND
NOTICE.

THAT REFERRED TO ALL LAND
USE DISTRICTS.
>> AFTER THE FIRST HEARING,
THEY DECIDED TO MAKE SOME
CHANGES.

HOW IS THE PUBLIC GOING TO
BE NOTIFIED OF THOSE
SPECIFIC CHANGES?

>> THE NOTICE WILL NOT
NOTIFY THF THEM OF THOSE
SPECIFIC CHANGES BUT THE
IDEA IS THAT THE CITIZEN WHO
IS PARTICIPATING IN, IN THE
HEARINGS WILL, WILL KNOW
THAT THERE CHANGES AND THE
ADDITIONAL POINT IS THERE
WILL BE AN ADDITIONAL
HEARING.

THERE WILL BE MORE
DELIBERATION.

>> DO YOU AGREE THAT ONE OF
THE PURPOSES OF THE HEARING
IS TO GET INPUT FROM THE
COMMUNITY.

>> ABSOLUTELY, YOUR HONOR.
>> AND AFTER THAT INPUT,
THEY NECESSARILY COULD MAKE
CHANGES TO THE ORDINANCE TO
ADDRESS THAT INPUT?
>> THEY CERTAINLY MAY MAKE

--

>> SO ACCORDING TO YOU,
EVERY TIME THAT THEY ADDRESS
THE COMMUNITY'S CONCERNS BY
MAKING A CHANGE, THEN THEY
HAVE TO GO THROUGH THE
PROCESS ALL OVER AGAIN, AND
IT MAY NEVER END BECAUSE AS
YOU GET MORE AND MORE INPUT,
YOU MAY DECIDE TO MAKE MORE
CHANGES.

SO EITHER IT'S GOING TO
STIFLE ANY CHANGE TO AN
ORDINANCE AND MAKE IT
WRITTEN IN STONE ONCE IT'S
PROPOSED OR YOU'RE NEVER
GOING TO GET AN ORDINANCE
PASSED.

>> YOUR HONOR, IT'S NOT --
PLAINTIFF'S PROPOSAL, IT'S
BEEN THE LAW OF FLORIDA FOR
40 YEARS THAT A SUBSTANTIAL
OR MATERIAL CHANGE THAT
OCCURS DURING THE ENACTMENT
PROCESS REQUIRES A
RESTARTING OF THE PROCESS.

>> BUT ISN'T THAT WHAT WE'RE
HERE ON IS TO DECIDE WHAT
THE LEGISLATURE MEANT,
STATUTORY CONSTRUCTION ON
SUBSTANTIAL AND MATERIAL
CHANGE.

NOT THAT THE SAME CONCERN
THAT JUSTICE CONTARA HAS
WHICH IS THAT IF THE NOTICE
ONLY HAS TO BE NOTICE OF THE
TITLE, AND THE TITLE DOESN'T
CHANGE BECAUSE OF A, THE
AMENDMENT PROCESS, THEN IT
IS REALLY, IT SEEMS TO BE
COUNTERPRODUCTIVE AND
THEREFORE IN LOOKING AT WHAT
THE LEGISLATURE MEANT BY
SUBSTANTIAL AND MATERIAL
CHANGE, WHITE ISN'T IT
BETTER TO INTERPRET THAT
PHRASE AS MEANING IF THERE
IS A SUBSTANTIAL AND
MATERIAL CHANGE IF THE
PURPOSE OF THE STATUTE THAT
WOULD REQUIRE A CHANGE IN
THE TITLE, THAT'S WHAT THAT
MEANT.

AND THAT TO ME MEANS --
BRINGS SANITY TO WHAT WOULD

OTHERWISE BE A PROCESS THAT I THINK WOULD HAVE THE EXACT EFFECT JUSTICE CANTERA IS SAYING.

SO THAT'S WHAT WE ARE DOING. SO IF THE LEGISLATURE WAS SET IN STONE AND WASN'T CLEAR, WE WOULDN'T BE HERE, CORRECT.

SO WE ARE LOOKING AT THAT TERM.

ISN'T THERE A BETTER WAY TO INTERPRET THE TERM AND THAT THERE IS A ONLY A REQUIREMENT OF RENOTIFYING OF THE TITLE.

NOT OF THE WHOLE ORDINANCE. THERE'S A LOT THERE, YOUR HONOR.

>> WELL, I AM GIVING MY THOUGHTS AS WELL BUT --

>> FIRST OF ALL, I WOULD SAY THAT THE, THE RENOTICE WILL CERTAINLY INFORM THE PUBLIC THAT THE PROCESS HAS STARTED OVER, THAT THERE IS SOMETHING NEW.

NOW IT MAY BE IF THE COUNTY CHOOSES TO TO BE TRICKY, BE EXACTLY THE SAME TITLE.

OBVIOUSLY, AS THE COUNTY HAS SUGGESTED, IT COULD DESCRIBE ALL OF ITS LAND USE ORDINANCES AS AN ORDINANCE AFFECTED LAND USE IN MONROE COUNTY, WHICH IS NOT VERY DISTRIBUTIVE OF ANYTHING AND WOULD ALLOW WITHIN THAT PURPOSE LITERALLY ANY KIND OF REGULATION FOR PERMISSIVE OR PROHIBITED.

BUT I THINK THE MORE GENERAL POINT IS THERE WOULD BE ADDITIONAL PUBLIC HEARINGS BUT THAT WOULDN'T MEAN THE LEGISLATIVE PROCESS WOULD NEVER END.

THERE WOULD BE INPUT AND PARTICIPATION FROM THE PUBLIC, AND THAT MIGHT MODIFY THE PROPOSAL AND THERE MIGHT BE ADDITIONAL HEARINGS.

BUT AT SOME POINT, THERE

WOULD BE A CONSENSUS, AND THE REQUIREMENTS OF THE STATUTE WOULD BE SATISFIED. >> UNDER, UNDER YOUR THEORY, THOUGH, WHAT, WHAT COULD CHANGE THAT WOULD NOT REQUIRE ADDITIONAL STARTING THIS PROCESS OVER?

BECAUSE FROM WHAT YOU'RE SAYING, ANY TIME THERE IS A CHANGE, YOU HAVE TO START OVER.

IS THERE ANYTHING THAT COULD CHANGE BASED ON THE PUBLIC INPUT THAT WOULD NOT REQUIRE OUR RESTARTING OF THE PROCESS?

>> OUR STANDARD IS NOT ANY CHANGE.

IT'S OBVIOUSLY, THE, THE PHRASE WE'RE TALKING ABOUT IS SUBSTANTIAL OR MATERIAL CHANGE.

AND WE'RE LOOKING TO THE TEXT OF THE STATUTE.

>> WELL, IN THIS CONTEXT, WHAT THEY WERE TALKING ABOUT WAS ADDING OR SUBTRACTING THESE RENTAL, THE RENTAL UNITS IN DIFFERENT DISTRICTS.

CORRECT?

>> CORRECT.

>> WHAT COULD YOU CHANGE TO THAT?

THAT YOU WOULD NOT BE A SUBSTANTIAL CHANGE BECAUSE WHAT THEY WERE SAYING WAS EITHER TAKING SOME OUT OF THE PARTICULAR DISTRICT OR PUTTING ALLOWING SOME INTO A PARTICULAR DISTRICT.

ISN'T THAT WHAT WAS GOING ON HERE?

>> CERTAINLY.

THE KEY CHANGES THAT WE HAVE IDENTIFIED ON PAGE 8 OF OUR INITIAL BRIEF WERE CHANGING FROM ONE DRAFT A PARTICULAR USE BEING PERMISSIBLE.

TO ANOTHER DRAFT GOING COMPLETELY THE OPPOSITE TO BEING PERMITTED.

I THINK THOSE ARE THE ONES

OF MOST CONCERN AND THOSE ARE THE ONES THAT DIRECTLY IMPLICATE THE STATUTE. WHAT, WHAT WE SUBMIT IS A WAY TO LOOK AT THIS, IF THERE WERE A PARTICULAR LAND USE IN A PARTICULAR ZONING CATEGORY, THAT ONE ORDINANCE HAD PROHIBITED AND THE COUNTY PROPOSED TO DO ANOTHER ORDINANCE THAT WOULD MAKE THAT USE PERMISSIBLE RATHER THAN PROHIBITED, IT WOULD HAVE TO GO THROUGH THIS PROCESS.

THE PLAIN TEXT OF THE STATUTE WOULD REQUIRE THAT. OUR POINT IS IT WOULD ACCORD WITH THE LEGISLATURE'S DESIRE FOR PUBLIC PARTICIPATION IF THE COUNTY AS IT DID HERE SWITCHES MIDSTREAM FROM PROHIBITED TO PERMITTED.

IT NEEDS TO RESTART THE PROCESS, AND GIVES CITIZENS THAT.

>> I THINK THE CONCERN YOU ARE HEARING FROM UP HERE IS THAT IF, IF YOU REQUIRE THERE TO BE A START OVER EVERY TIME THERE IS ANY TYPE OF, OF CHANGE, IF YOU ERR ON THE SIDE OF MAKING THE STARTOVER BECAUSE OF A LIBERAL DEFINITION,, SUBSTANTIAL HERE.

THAT WHAT YOU DO IS THAT YOU STIFLE THE EFFECT OF PUBLIC COMMENT.

BECAUSE WHEN THE PUBLIC SHOWS UP IN COMMENTS, THEY'RE GOING TO HAVE A HEAVY BURDEN TO CARRY IN ORDER TO GET ANYTHING DONE IN REGARD TO THIS ORDINANCE BECAUSE THE PEOPLE THAT THAT, THAT ARE DOING IT RECOGNIZE THAT IF THEY MAKE THAT CHAFB, THEY ARE GOING TO HAVE TO START OVER.

SO ISN'T THAT A REAL CONCERN.

>> YOUR HONOR, I DON'T

BELIEVE IT'S A LIBERAL STANDARD WE'RE PROPOSING OR CONSERVATIVE STANDARD. IT'S THE STANDARD THAT THE LEGISLATURE HAS WRITTEN INTO THIS STATUTE NO FEWER THAN FOUR TIMES.

AND, AND, YES, IT IS A CONCERN THE PUBLIC POLICY CONCERN ABOUT FOSTERING LEGISLATION BUT I THINK WHAT THE -- HAS MADE IN THIS STATUTE IS FOR LAND USE ORDINANCES, THERE NEEDS TO BE SOME EXTRA TIME.

THERE NEEDS TO BE MORE PROCESS THAN THE TYPICAL LEGISLATIVE INTERACTION, AND I THINK AS WE POINTED OUT IN OUR BRIEF, SUBDIVISION 3 IN THIS STATUTE IS A GOOD EXAMPLE OF THAT.

THAT PROVIDES FOR EMERGENCY IT ENACTMENT PROCEDURES FOR ALMOST EVERY KIND OF LEGISLATION.

BUT THE LEGISLATURE HAS SPECIFICALLY SAID THAT EMERGENCY PROVISION IS NOT AVAILABLE FOR THESE KIND OF LAND USE ORDINANCES.

THESE KIND OF LAND ORDINANCES NEED TO TAKE TIME.

IF THERE NEEDS TO BE A THIRD MEETING, IF THERE NEEDS TO BE AB EXTRA 20 TO 30 DAYS OF ADDITIONAL TIME, THAT'S A GOOD THICK, NOT A BAD THING.

>> IN THIS CASE, THERE WERE 23 DIFFERENT DISTRICTS?

>> THERE WERE, THERE WERE 23 FISHING DISTRICTS, YOUR HONOR.

>> AND HOW MANY DISTRICTS WERE THERE IN TOTAL?

>> LOOKING AT APPENDIX B TO OUR INITIAL BRIEF, THERE LOOKS TO BE ABOUT 40 TO 50 TOTAL DISTRICTS.

SO LET'S SAY THERE ARE 40 DISTRICTS FOR THE FIRST HEARING.

PEOPLE SHOW UP WITH A SPARSELY

POPULATED DISTRICTS AND SAY WE DON'T THINK VACATION HOMES SHOULD BE PROHIBITED HERE.

WE THINK IT SHOULD BE AT LEAST CONDITIONALUOUS AND SAY OKAY WE ARE GOING TO CHANGE THE STATTITUDE TO CONDITIONAL USE AS TO NUMBER 40, THAT'S GOING TO HAVE TO THEN START THE PROCESS OVER.

>> YOUR HONOR, IT CERTAINLY MAY, AND AGAIN, I THINK THAT'S SOMETHING TO BE EMBRACED.

SPEED AND EFFICIENCY ARE NOT THE ONLY VALUES HERE.

THEY ARE CERTAINLY THE ONES THAT THE COUNTY EMPHASIZES BUT I THINK WHAT THE LEGISLATURE HAS SAID IN THIS LAND USE CONTEXT WHERE PEOPLE'S DUE PROCESS RIGHTS ARE AT STAKE WHERE YOU REALLY TALKING ABOUT --

>> LET ME GET BACK TO MY EXAMPLE, THOUGH,

LET'S SAY THEY TA DO THAT AND THEY PUBLICKICIZE ANOTHER NOTICE, HOW IS THE PUB LBLG -- PUBLIC GOING TO BE INFORMED THAT THET ORDINANCE HAS NOW BEEN CHANGED THERE IS NO CHANGES TO 39 DISTRICTS BUT IN THAT ONE 40th DISTRICTS THERE IS GOING TO BE INSTEAD OF PROHIBITED USE, THERE IS GOING TO BE CONDITIONAL USE. HOW DOES THE NOTICE INFORM THE PUBLIC AT ALL ABOUT THAT ONE CHANGE?

>> YOUR HONOR, THE PUBLIC WILL BE INFORMED THAT, THAT HAD PROCESS IS STARTING OVER, AND UNDER THE SUNSHINE LAWS, THEY WILL BE ABLE TO HAVE ACCESS TO ALL OF THE PROPOSED DRAFTS.

SO IT WILL TAKE A SID SWRN THAT'S, THAT'S INTERESTED IN THE PROCESS.

I GUESS I WOULD SAY IN GENERAL, WITH REGARD TO YOUR

EXAMPLE, THERE'S, THERE'S NO INHERENT REASON WHY THE COUNTY HAS TO DEAL WITH 40 DISTRICTS AT ONE TIME ANE SINGLE ORDINANCE.

IT MAY BE A SIGNIFICANT SIZE PROBLEM THAT NEEDS TO BE DEALT WITH IN MORE REASONABLE SIZE FIGHTS AND SO --

>> NOTHING PROHIBITS THE COUNTY FROM DOING WITH IT ALL AT ONCE?

NO, ABSOLUTELY NOT.

IT MAY BE THE CASE THAT THE LEGISLATURE SCRIPTURES IN THIS STATUTE REQUIRE SOME ADDITIONAL HEARINGS, SOME ADDITIONAL RESTARTING OF THE PROCESS.

BUT THERE'S NOTHING INHERENT THAT, THAT THERE HAS TO BE THIS OMNIBUS APPROACH.

>> IF THAT WAS THE LEGISLATIVE INTENT, THEN WHY IN THE FORM THAT THEY PROVIDE DID THEY JUST LIMIT IT TO THE TITLE?

WHY WOULD THEY NOT HAVE PUT IN PLACED THE ORDINANCE IN THE ADVERTISEMENT?

>> YOUR HONOR, I THINK THAT THE STATUTE HERE HAS NUMEROUS REQUIREMENTS FOR WITH WHICH LOCAL GOVERNMENTS NEED TO COMPLY.

I THINK THAT TITLE IS ONE. OBVIOUSLY, MULTIPET HEALERS -- MULTIPLE HEARINGS AND PARTICULAR KINDS OF ADVERTISEMENTS ARE ANOTHER BUT THE WRITE OO LIST ACTUAL LIST OF PROHIBITED USES INTO THE STATUTE NO FEWER THAN FOUR TIMES.

>> BUT NOT IN THE NOTICE?

>> BUT NOT -- IT DOES REQUIRE THAT LIST TO BE PLACED IN THE NOTICE THAT IT'S PUBLICBISHED SNATHAT IS CORRECT, YOUR HONOR, AND CERTAINLY OUR ARGUMENT IS NOT THAT THAT KIND OF DETAILED NOTICE IS REQUIRED.

>> IF WE COULD GO BACK TO JUSTICE CANTERO'S. START THE PROCESS AGAIN BECAUSE YOU HAVE MADE A CHANGE TO ONE OF THE DISTRICTS.

AND NOW YOU'VE, YOU'VE STARTED IT OVER, AND A CITIZEN COULD COME IN FROM ANOTHER DISTRICT.

SAY ANOTHER DISTRICT COMES AND IN SAY, WELL WE DON'T WANT TO TOTALLY DISBAND VACATION RENTALS IN OUR DISTRICT.

COULD WE HAVE CONDITIONAL USE IN OUR DISTRICT ALSO?

AND AFTER MULLING IT OVER, THE, THEY DECIDE, YES, THIS DISTRICT CAN HAVE IT.

THEN YOU'D HAVE TO START THE PROCESS AGAIN ALSO.

>> YOU WOULD, YOUR HONOR, IF IT IMPLICATES THE ACTUAL LIST OF, OF PROHIBITED AND SO FORTH.

>> YOU ARE WELL NTO YOUR REBUTTAL.

CERTAINLY USE YOUR TIME AS YOU PLEASE.

>> I WOULD LIKE TO RESERVE MY BALANCE FOR REBUTTAL.

>> MR. SCALES?

>> THANK YOU, YOUR HONOR. MAY IT PLEASE IT COURT.

FIRST I WOULD LIKE TO INTRODUCE MYSELF.

I'M ED SCALES FROM THE KEY WEST OFFICE OF GRAYROBINSON.

IN FACT, I AM THE KEY WEST OFFICE OF GRAYROBINSON.

TO MY RIGHT IS MONRAY CAMPBELL OF LAKELAND OFFICE AND TO MONRAY'S RIGHT IS BOB SHILLINGER THE CHIEF DEPUTY COUNTY ATTORNEY FROM MONROE COUNTY.

AND MAY IT PLEASE THE COURT, THIS CASE AT ITS ESSENCE AND JUSTICE CANTERO HIT ON ITS IN HIS FIRST QUESTION IS WHEN MUST THE PROCESS START OVER AGAIN.

AND THAT'S THE CERTIFIED

QUESTION.

WHAT TYPE OF CHANGE TO A
LAND USE ORDINANCE REQUIRES
THE COUNTY TO START OVER
AGAIN?

AND THE COUNTY IS SUGGESTING
AN AMICUS IN THIS CASE IS
SUGGESTING, JUST UPON THE
SIDE, AMICUS IS THE
ASSOCIATION OF COUNTIES IN
THE FLORIDA LEGAL OF CITIES
BECAUSE THE STATUTES
RELATING TO HOW COUNTIES
ADOPT ORDINANCES AND HOW
CITY ADOPT ORDINANCES OF
THIS TIME ARE -- TYPE ARE
IDENTICAL SO THERE ARE SOME
WIDE RANGE OF POSSIBLE
PRECEDENCE HERE.

WHAT THE COUNTY IS
SUGGESTING IS THAT WHEN THE
USE IS CHANGED, WHEN THE USE
THAT IS EFFECTIVE, WHICH IS
THE ORIGINAL GENERAL PURPOSE
IN THIS PARTICULAR CASE, THE,
THE, THE REGULATION OF
VACATION RENTALS, WHEN THAT
USE IS CHANGED, YOU HAVE A
NEW ORDINANCE IN THE PROCESS
NEEDS TO START ANEW.
FOR EXAMPLE, IN, IF IN THE
INTRAENACTMENT PROCESS THE
COUNTY HAD DECIDED IN
ADDITION TO REGULATING RENTAL
VACATION RENTALS WE WANT TO
REGULATE ADULT OR WHERE
SHOPPING CENTERS GOING WHERE
THE FUNDAMENTAL CHARACTER OF
THE ORDINANCE CHANGES THEN
THE PROCESS NEEDS TO BEGIN
ANEW.

>> WELL, CAN, IS THAT, 100%
THE CASE?

LET'S JUST TAKE IN THIS
SITUATION, THE -- VACATION
RENTALS AND I STARTED OUT
THINKING THEY GOT WHAT 26
DISTRICTS?

40 DISTRICTS.

THEY DECIDED THEY ARE GOING
TO JUST DO IT IN ONE.

AND AFTER HEARING THE FIRST
SET OF COMMENTS, THEY,
EVERYONE GOING, THIS IS SO

IMPORTANT.

WE NEED TO DO IT AND BAN IT
IN EVERY ONE.

IN OTHER WORDS, AT SOME
POINT, EVEN THOUGH IT'S
STILL THE SAME SUBJECT,
DOESN'T, ISN'T THERE A POINT
WHEN SOMETHING BECOMES A
SUBSTANTIAL AND MATERIAL
CHANGE.

>> THERE MOST CERTAINLY IS A
POINT, AND THAT POINT IS
SPECIFICALLY OUTLINED IN THE
STATUTE AND IT HAS TO DO
WITH GEOGRAPHY.

THERE IS A DIFFERENT NOTICE
REQUIREMENT FOR WHAT YOU ARE
TALKING ABOUT, AN INSULAR
AREA FUFKTING TEN CONTIG WS
ACRES OR LESS THAT IS IN
MONROE COUNTY AN INSULAR
ZONING DISTRICT WHERE YOU
ARE GOING TO SAY IN THIS
PARTICULAR ZONING DISTRICT
HP 7 OR THE COMMERCIAL
FISHING DISTRICT OR 4 OR
WHATEVER, WE ARE GOING TO
CHANGE THET ZONING IN THAT
PARTICULAR DISTRICT.

THE STATUTE SAYS AN ENTIRELY
DIFFERENT NOTICE REQUIREMENT
IS REQUIRED FOR THAT
PARTICULAR CHANGE.

>> SO YOU CAN'T ENVISION
SOMETHING WHERE THE PURPOSE
REMAINS THE SAME OR THE
ORDINANCE BECOMES
SUBSTANTIALLY AND MATERIALLY
DIFFERENT AND THAT MAY NOT
BE A BRIGHT LINE RULE.

IT STILL MAY HAVE, AGAIN, AS
ITS OVERALL PURPOSE
REGULATION OF VACATION.
IS THERE --

>> IT CERTAINLY COULD BE IN
THE ABTRACT JUSTICE PARIENTE
BUT FROM A PRACTICAL
PERSPECTIVE THE WAY COUNTIES
AND CITIES WORK IT GOES
THROUGH PLANNING BOARDS AND
PLANNING REVIEW.

GENERALLY, WHAT HAPPENS IS,
AND LAND USE ORD NNS ARE
BASES ON -- ORDINANCERIZE

BASED ON TWO TYPES OF ORDINANCES CITY OR COUNTIWIDE IMPACT WHERE YOU ARE TRYING TO DEAL WITH A SUBJECT OF A COUNTIWIDE BASIS AND THAT IS THE TYPE OF ORDINANCE WE ARE TALKING ABOUT IN INSTANT CASE OR VERY INSULAR, DISCREET AREA WHERE WE ARE TRYING TO MAKE A CHANGE IN THAT PARTICULAR AREA.

GENERALLY, THE BETWEEN NEVER MEET.

YOU GENERALLY HAVE A PROCESS WHERE, AND IN THIS CASE, IT WAS NOTICED AS A, ALL OF THE LAND USE DISTRICTS IN THE COUNTY WOULD BE POTENTIALLY AFFECTED BAUTS BECAUSE THIS WAS A COUNTY WIDE PROBLEM. AND, AND I APOLOGIZE, AND WE DIDN'T REALLY TALK, SPECIFICALLY ABOUT WHAT, WHAT WAS BEING REGULATED HERE.

WE DOCKABOUT ABOUT VACATION RENTALS OR VACATION USE, SPECIFICALLY FOLKS IN THE KEYS USE THEIR HOMES AS HOTEL PROPERTIES.

WHERE THEY ARE RENTING ON A SHORT TERM BASIS.

BS AND WHAT THE COUNTY DID HERE, WHAT THE ORDINANCE WE ARE TALKING ABOUT DID HERE, IS IT SAID OKAY YOU CAN'T RENT IT FOR FEWER THAN 28 DAZE.

BECAUSE WHAT WAS HAPPENING HERE, WE HAD A COUPLE OF ISSUES GOING ON ON AFFORDABLE HOUSING STOCK HAD BEEN DEPLENISHED BY THE USE OF THESE VACATION HOMES, PLUS, FOLKS WERE RENTING TO SPRING BREAKERS AND THERE IS, YOU KNOW, WHEN YOU HAVE FOLKS LIVING NEXT DOOR TO YOU THAT THEY HAVE A DIFFERENT SET OF -- THEY'RE ON VACATION AND YOU ARE NOT, IT CREATES PROBLEMS IN NEIGHBORS SO THAT'S WHAT

REALLY WE ARE TALKING ABOUT.
SO I APOLOGIZE IF THAT
WASN'T CLEAR.

IN THIS CASE, IT WAS A
COUNTY WIDE PROBLEM T. HAS
BEEN A COUNTY WIDE PROBLEM
FOR 20 YEARS BECAUSE THE
KEYS LIKE MANY OTHER AREAS
ARE VACATION DESTINATION.
IN ANY EVENT, THE, THE, THE
PROCESS BEGAN AND THESE
PARTICULAR ORDINANCES WERE
VETTED NOT ONLY IN AT THE
BOARD OF COUNTY
COMMISSIONERS LEVEL BUT AT
THE PLANNING BOARD LEVEL AND
THE PLANNING COMMISSION
LEVEL AND SO THIS WAS A VERY
HOT BUTTON ISSUE IN THE
FLORIDA KEYS.

IN ANY EVENT, TO ADDRESS
JUSTICE CANTEAR CANTERO'S
QUESTION TOLD EVERYBODY IN
THE FLORIDA'S KEY STHATS WE
ARE GOING TO ADDRESS THAT
SUGGEST, AND THAT SUBJECT IS
THE USE TO BE REGULATED,
WHICH WAS VACATION RENTALS.
AND THAT WAS THE NOTICE THAT
WAS SENT OUT.

INTERESTINGLY --
SPECIFICALLY TO ADDRESS
JUSTICE CANTERO'S QUESTION,
IF WE HAD RENOTICED AS IS
BEING SUGGESTED BY THE
PLAINTIFF'S, THE NOTICE
WOULD HAVE BEEN IDENTICAL
BECAUSE THE STATUTE
SPECIFICALLY SAYS THE NOTICE
MUST BE BY TITLE ONLY.
125.67 SAYS THE TITLE MUST
CONTAIN A SHORT STATEMENT OF
THE SUBJECT AND 125.67 THE
STATUTE RIGHT AFTER 125.66
SAYS THAT THE SUBJECT THAT,
THAT NO ORDINANCE CAN
CONTAIN MORE THAN ONE
SUBJECT.

SO WITHIN THOSE STATUTORY
PARAMETERS, THE NOTESIS
REQUIRED TO CARRY ONLY THE
TITLE, THE TITLE ONLY HAS
THE SUBJECT.
IF YOU WERE TO SEND OUT A

THIRD OR A FOURTH NOTICE,
THE, THE NOTICE WOULD BE
IDENTICAL BASED ON THOSE
STATUTORY PARAMETERS, SO IT
WOULD BE IN EFFECT A
MEANINGLESS ACT.

>> WE ARE HERE ON A
CERTIFIED QUESTION OF THE
11th CIRCUIT, AND WHAT, I
WOULD LIKE FOR YOU TO
ADDRESS IS THE ANSWER
DIRECTLY TO THE DIRECT
QUESTION THAT'S CERTIFIED.
AND THAT IS WHETHER A
SUBSTANTIAL CHANGE INCLUDES
A CHANGE TO THE ACTUAL LIST
OF PERMITTED CONDITIONAL
USE.

AND THE ANSWER TO THAT
QUESTION IS ONLY THOSE
CHANGES THAT ARE MADE
INTRAENACT NLT THAT RENDER
THE -- INTRAENACTMENT THAT
RENDTHER TITLE MEANINGLESS,
CHANGING THE SUBJECT OF THE
MEASURE REQUIRES THE PROCESS
TO BEGIN ANEW.

SPECIFICALLY TO ADDRESS THE
CERTIFIED QUESTION, THEN, IF
THE USE TO BE REGULATED
CHANGES, THEN THAT WOULD
ENACT, THAT WOULD REQUIRE
THE PROCESS TO BEGIN ANEW.

>> HOW DOES THAT DIFFER FROM
THE ALTERNATIVE THAT THE
11ICT CIRCUIT PROPOSED WHICH
IS A CHANGE IN THE ORIGINAL
GENERAL PURPOSE OF THE
PROPOSED ORDINANCE?

>> IT DOESN'T.

AND THAT'S OUR, IT IS OUR
ARGUMENT THAT THE TERMS ARE
SINOMMOUS.

ORIGINAL GENERAL PURPOSE IS
SINOMMOUS WITH SUBJECT,
WHICH IS SINOMMOUS WITH, AND
THIS IS LANGUAGE FROM THE
OTHER STATES THAT WE HAVE
CITED, FUNDAMENTAL CHARACTER,
BASIC CHARACTER, OR ORIGINAL
PURPOSE OUT OF TEXAS, CITED
BY ATTORNEY GENERAL, AND,
AND IDENTITY OF PROPOSAL,
WHEN THE IDENTITY OF THE

PROPOSAL CHANGES.

THE SINNONYMOUS WITH
ORDINANCE IS THE USE TO BE
REGULATED.

IN THIS CASE, VACATION
RENTALS.

NOT THE LIST OF AFFECTED
ZONING DISTRICTS.

>> WHAT'S VIRTUALLY NO
CHANGE WILL REQUIRE THE
ENACTMENT PROCESS TO BEGIN
ANEW.

>> WELL, AGAIN, I THINK THAT
THE TITLING REQUIREMENTS IN
125.67 SPECIFICALLY SAY THAT
THE SUBJECT MUST BE
REFERENCED IN THE TITAL AND
THIS COURT'S CASE LAW ON
WHAT A SUBJECT IS, I THINK
WOULD GOVERN THAT BECAUSE
125.67 IS IDENTICAL TO THE
PROVISIONS NOST FLORIDA
CONSTITUTION, WHICH GOVERN
LEGISLATIVE ACTS.

AND SPECIFICALLY TO ANSWER
YOUR QUESTION, COMMON SENSE
BECAUSE I THINK WHEN YOU'RE
TALKING ABOUT A LAND USE
ORDINANCE, THE USE REGULATED
IS THE SUBJECT.

>> YOU AGREE, DO YOU NOT,
THAT THE LAND -- THE CITIZEN
LANDOWNER ALWAYS RETAINS THE
RIGHT TO CHALLENGE THE
ADEQUACY OF THE NOTICE THAT
WAS PROVIDED IN TERMS OF
HAVING A SPECIFIC IMPACT ON
THE PROPERTY THAT THEY
OWNED.

THAT IS, THAT IF, IF THEIR
PROPERTY IS SOMEHOW
CONFISCATED OR
SUBSTANTIALLY AFFECTED IN
THE NOTICE WAS NOT ADQT, TO
PUT THEM ON NOTICE, THAT
THIS IS NOW THE TIME FOR
THEM TO, TO COME AND SPEAK
UP.

THAT, THAT IS A SEPARATE
ISSUE BUT YOU AGREE THAT
THAT NOTICE HAS TO MEET
THOSE CONSTITUTIONAL
STANDARDS.

>> YES, JUSTICE ANSTEAD, I

DO, AND AS YOU WROTE IN THE NORTH MIAMI DACE OR I'M SORRY, THE NORTH BEACH v. FORT LAUDERDALE CASE, THE NOTICE THAT IS REQUIRED IS A NOTICE THAT THE REASONABLE PERSON CAN UNDERSTAND. YOU DON'T HAVE TO BE A ZONING EXPERT TO APPRECIATE THAT NOTICE, BUT IMPORTANTLY, WHAT WE'RE TALKING ABOUT HERE IS A LEGISLATIVE FUNCTION AS OPPOSED TO A QUASI-JUDICIAL JUNCTION.

-- FUNCTION, THIS IS NOT A CASE I WHERE A PARTICULAR APPLICANT IS SEEKING A VARIANCE OR SPECIAL EXCEPTION.

WE ARE TALKING ABOUT LEGISLATION AFFECTING THE ENTIRE COUNTY SO THERE IS A BALANCE BETWEEN THE FLEXIBILITY THAT THE LEGISLATIVE BODY HAS AND THE CONCEPT OF NOTICE.

BUT THAT BALANCE IS STRUCK. BUT THAT NOTES STRUCK IN THE STATUTE.

>> YOU STARTED OUT BY USING AN EXAMPLE, FOR INSTANCE, IF THEY SHOWED UP AT THE COMMISSION MEETING AND INSTEAD OF DRIVING RENTALS, YOU KNOW, IN THESE DISTRICTS, NOW THEY STARTED ADDRESSING WHETHER OR NOT YOU CAN SELL LIQUOR OR, OR, OR, OR, YOU KNOW, IT COULD BE AN ADULT BOOKSTORE OR SOMETHING.

AND SO THE CITIZEN LANDOWNER ALWAYS RETAINS THE RIGHT TO SAY, WAIT A MINUTE, YOU HAVE MOVED THE P HERE AND YOU KNOW YOU HAVE TAKEN AWAY SOMETHING THAT I HAD BEFORE OR YOU'VE PUT SOME BURDEN THAT, THAT THE NOTICE DIDN'T REALLY ADEQUATELY PUT ME ON NOTICE.

>> ABSOLUTELY, BUT I THINK -- AND I AGREE WITH YOU JUSTICE ANSTEAD -- THE CITIZEN RETAINS THAT.

>> I AM TRYING TO BE SURE IN WHAT I PERCEIVE TO BE SORT OF AN APPLES AND ORANGES KIND OF SITUATION. NOT TO MOVE INTO THAT AREA BECAUSE I'M ASSUMING THAT YOU WOULD ALWAYS AGREE THAT THIS NOTICE HAS TO BE ADEQUATE. IN TERMS OF THAT, YOU KNOW, FROM THE BEGINNING. TO PUT AFFECTED LANDOWNERS ON NOTICE THAT SOMETHING'S GOING TO HAPPEN.

>> ABSOLUTELY. ABSOLUTELY. AND THE NOTICE IS, IS ESSENTIAL AND THE NOTICE OF PROVISIONS INCIDENTALLY MAKE UP 85% OF THE SUBJECT STATUTE SO THE NOTES IS CRITICAL. WHAT IS -- NOTICE IS CRITICAL. WHAT IS CONTAINED IN THE NOTICE, HOWEVER S STATUTORILY MANDATED AND THAT IS THE SUBJECT AND THE PURPOSE OF THAT, AND AGAIN THAT CHANGE WAS MADE BY THE LEGISLATURE IN 1995. THE PURPOSE OF THAT CHANGE WAS TO GIVE MORE FLEXIBILITY TO MUNICIPALITIES AND COUNTIES. BUT, THE, THE, WHAT YOU DEFINITELY WANT TO, WANT TO BE CAREFUL ABOUT IF YOU'RE THE COUNTEE YOSHGS RUR THE MUNICIPAL, -- COUNTY, YOU'RE THE MUNICIPALITY IS MAKING SURE ANY CHANGE THAT YOU MAKE IN THE PROCESS IS ENCOMPASSED IN THE NOTICE. AND THOSE CHANGES THAT YOU MAKE, IF THEY ARE OUTSIDE THE SCOPE OF WHAT YOU ARE NOTICING AND WE WOULD SUGGEST THAT THE NOTICE WOULD BE, THE PERMITTED CONDITIONAL OR PROHIBITED USES THAT IF YOU CHANGE WHAT USE YOU'RE REGULATING, THEN YOU HAVE GOT OUTSIDES OF THE

SCOPE OF THE NOTES AND THAT WOULD REQUIRE THE PROCESS TO BEGIN ANEW.

BUT FORNTLY, IN THE INSTANT CASE, THE TRIAL COURT FOUND AS A MATTER OF LAW THAT THE NOTICE MET THE REQUIREMENTS OF THE STATUTE.

SO THE,, THE SO WE'RE, WE'RE NOT REALLY TALKING IN THE INSTANT CASE ABOUT WHETHER THE NOTICE WAS, WAS VALID. THE NOTICE IS VALID.

>> WHEN YOU SAID THAT THE NOTICE HAS TO LIST A SUBJECT, AND I KNOW WE GHET WITH SINGLE SUBJECT CASES, AND FOR THE LEGISLATURE, YOU KNOW, SOMETIMES THE SUBJECT IS REGULATING THE CRIMINAL LAW OF THE STATE OF FLORIDA. YOU KNOW, AND IT'S SO BROAD THAT IT'S ENCOMPASSES A LOT. WHAT IS, IF WE'RE GOING TO BE LOOKING AT THE SUBSTANTIAL MATERIAL CHANGE IS ONE THAT WOULD CHANGE THE SUBJECT MATTER THAT WOULD REQUIRE A CHANGE IN THE TITLE.

WOULD THAT BE THE WAY YOU DEFINE IT?

>> THAT IS THE STANDARD THAT THE COUNTY IS SUGGESTING. THAT THE ATTORNEY GENERAL IS SUGGESTING.

>> BUT MY QUESTION THERE IS HOW BROAD CAN YOU -- ARE YOU ALLOWED TO MAKE THE TITLE AND CAN YOU MAKE IT SO BROAD THAT IT REALLY DOES ALLOW FAR MORE CHANGES TO OCCUR THAN WOULD HAVE BEEN ANTICIPATED BY THE STATUTE. A CITIZENS AT ALL TIMES ARE AWARE OF WHAT'S GOING ON. SO IN OTHER WORDS, SOME WHOSE, DOES A SUBJECT BUT IT'S NARROW ONE VERSUS THE BROAD ONE.

HOW DO YOU ADDRESS THAT CONCERN?

>> FROM A PRACTICAL STANDPOINT, THAT REALLY

DOESN'T HAPPEN BECAUSE I'VE NEVER SEEN AN ORDINANCE I WAS NEVER A CITY COMMISSIONER, I'VE NEVER SEEN A LAND USE ORDINANCE THAT SAYS WE ARE GOING TO AFFECT LAND USE IN ALL OF OUR CATEGORIES.

I THINK THAT NOTICE WOULD BE SO BROAD AS TO BE MEANINGLESS, ESPECIALLY IN THE CONTEXT OF, OF 125.66.

I THINK YOU ARE SAYING OUR CASE LAW WOULD GOVERN THAT

--

>> YES, YOUR CASE LAW WOULD GOVERN THAT AND IF THE 11th CIRCUIT HAS INDICATED THERE IS NO CASE LAW DIRECTLY ON POINT BUT ALL OF THE CASES FROM OTHER JURISDICTIONS THAT HAVEDRIESED THIS ISSUE -- ADDRESSED THIS ISSUE LOOKED AT WHETHER THE FUNDAMENTAL CHARACTERISTIC HAS CHANGED WLRX THE CHANGE IS SUCH THAT WOULD BE TREATED AS A NEW PROPOSAL, IN THE INSTANT CASE THERE WERE ZONING DISTRICTS BETWEEN THE FIRST READING AND SECOND READING AND THAT IS THE TO BE EXPECTED, ESPECIALLY WHEN YOU ARE TALKING ABOUT LEGISLATION AS OPPOSED TO A QUASI-JUDICIAL FORUM.

AND WHAT I MEAN BY THAT IS IN MONROE COUNTY, YOU WALK INTO YOUR COUNTY COMMISSIONER AT THE GROCERY STORE OR THE PET STORE WHEN YOU ARE WALKING YOUR DOG OR SOMETHING LIKE THAT AND YOU SAY, HEY, THIS IS A PROBLEM IN MY AREA.

I KNOW YOU ARE CONSIDERING IT, BETWEEN FIRST AND SECOND READING IN THIS CASE WAS TWO MONTHS, AND THERE IS INPUT THERE.

THERE IS ALSO INPET AT THE PUBLIC MEETINGS SO YOU WANT THE LIDGE SLATIVE BODY TO

REACT -- LEGISLATIVE BODY TO
REACT NIMBLY AND DYNAMICALLY
TO THAT INPUT WITHOUT HAVE
TROG START THE PROCESS OVER,
ESPECIALLY GIVEN THE
PARAMETERS OF THE STATUTE IF
WHEN YOU START THAT PROCESS
OVER, THE NEW NOTICE THAT
YOU GIVE IS GOING TO BE
IDENTICAL TO THE NOTICE THAT
YOU'VE ALREADY GIVEN, IT'S
SORT OF A MEANINGLESS
EXERCISE.

DOES IT, DOES THAT ANSWER
THE QUESTION?

SO, IN, CONCLUSION, I THANK
YOU FOR YOUR TIME.

AND WOULD REMIND THIS COURT
THAT, THAT THE COUNTY, THE
PLAINTIFFS, THERE HAS NOT
BEEN ONE CASE SOIST CITED
WHERE A COURT HAS VOIDED AN
ORDINANCE THAT ENACTS
PRECISELY WHAT WAS
ADVERTISED.

THE PLAINTIFFS ARE ASKING
YOU TO SET SOME GROUND HERE,
SET SOME PRECEDENT BY
SUGGESTING THAT THE COUNTY'S
ORDINANCE BE VOIDED WHEN IT
ACTED PRECISELY WHAT
OZADSVERTISED.

THANK YOU.

>> I'LL START WITH THAT WORD
PRECISELY.

THE PROPOSAL OF THE COUNTY
IN THIS CASE IS TO FOR THIS
COURT TO VAL DADE A STANDARD
UNDER WHICH THE COUNTY COULD
GIVE NOTICE OF AN ORDINANCE
REGULATING LAND USE IN
MONROE COUNTY.

AND THERE IS NOT ANY CHANGE
THAT COULD BE MADE DURING
THE ENACTMENT PROCESS THAT
WOULD TAKE THE PROPOSED
ORDINANCE OUT OF THAT TITLE.
OUT OF THAT SNL.

SO TO BORROW --

>> FIRST OF ALL, DO YOU
AGREE THAT FOLLOW UPIN' UP
ON THE QUESTIONS THAT I ASK
YOUR OPPONENT HERE, THAT
THERE ARE TWO DISTINCT

ISSUES THAT COULD BE
IMPLICATED BUT ONE IS REALLY
NOT IMPLICATED IN THE, IN
YOUR POSITION HERE.

AND THAT IS THAT YOU ARE NOT
CHALLENGING THIS ON THE
BASIS THAT HEY, THIS NOTICE
TO BEGIN WITH WAS NOT
ADEQUATE TO PUT ME AS A
LANDOWNER ON NOTICE THAT
SOMETHING MIGHT HAPPEN IN
THIS SUBJECT MATTER TO MY
PROPERTY.

THAT THAT'S A SEPARATE ISSUE,
INSOFAR AS AS, YOU KNOW,
SOME MINIMUM SAFEGUARD TO
ALL PROPERTY OWNERS THAT,
THAT, THAT, SUBSTANTIAL
CHANGE WON'T BE MADE.
THERE HAS TO BE ADEQUATE
NOTICE TO THE PROPERTY
OWNERS TEWLERT THEM.
YOU ARE NOT RELYING ON YOUR
FUNDAMENTAL CONSTITUTIONAL
RIGHT, ARE YOU?

>> IN ONE SENSE THAT IS
CORRECT.

WE ARE FOCUSED ON THIS
STATUTE 125.66 ALTHOUGH WE
VERY STRONGLY ARGUE THAT
THAT NEEDS TO BE INTERPRETED
IN LIGHT OF THE DUE PROCESS
LIKE REQUIREMENTS THAT --

>> BUT YOU'RE FOCUSING ON
THE ISSUE HERE OF JUST HOW
MUCH ROOM --

>> CORRECT, YOUR HONOR.

>> -- ONCE NOTICE IS GIVEN
THAT A COUNTY GOVERNMENT,
CITY GOVERNMENT HAVE NOW TO
MOVE WITHIN THE AREA THAT
THEY HAVE NOTICED THAT THEY
ARE GOING TO TAKE SOME
ACTION ON.

IS THAT CORRECT?

>> THAT'S CORRECT, YOUR
HONOR.

>> LET ME ASK YOU THIS.
GOING BACK TO YOUR ORIGINAL
STATEMENT IN REBUTTAL THAT
THE CITY CAN DEFINE THE
STATUTE SO BROADLY REGULATED
LAND USE, AREN'T THERE
INTERNAL DISINCENTIVES IS

BECAUSE THE COUNTY COMMISSION DOESN'T WANT THE ENTIRE COUNTY COMING TO A HEARING WHEN THEY DON'T KNOW REGULATE LAND USE.

IT MAY REGULATE LAND USE.

IT MAY REGULATE MY HOTEL.

THERE ARE THOUSANDS OF PEOPLE AT THE HEARING WHEN ALL THEY ARE TALKING ABOUT IS VACATION RENTALS.

ISN'T THERE AN INCENTIVE TO THE COUNTY PARTLY WHY WE DON'T SEE MANY CASES LIKE THIS WHERE THE COUNTY HAS DEFINED IT SO BROADLY, ISN'T THERE A STANDARD TO DEFINE IT AT THE LEVEL OF SPECIFICITY SO ONLY PROPERTY OWNERS DIRECTLY AFFECTED BY THE CHANGE ARE GOING TO BE COMING TO THE HEARING?

>> THERE MAY BE, YOUR HONOR, BUT THE QUESTION HERE IS WHAT ARE THE REQUIREMENTS IMPOSED BY THE LEGISLATURE. I THINK THE PROBLEM WITH THE COUNTY'S APPROACH IS EVEN IF WE HAVE AN ORDINANCE THAT TALKS ABOUT THE REGULATION OF VACATION RENTALS.

WE COULD HAVE A FIRST DRAFT THAT COMPLETELY BANS VACATION RENTALS IN ONE PORTION OF THE COUNTY AND PERMITS IT IN THE OTHER. AND UNDER THE COUNTY'S THEORY, THAT COULD TOTALLY SWITCH BETWEEN THE FIRST AND SECOND READINGS.

AND THEY COULD BE ALLOWED IN ONE PORTION AND PROHIBITED IN THE OTHER.

>> BUT PROPERTY OWNERS ARE INFORMED THEY KNOW THERE IS GOING TO BE A FIRST HEARING AND THEY KNOW THERE IS GOING TO BE A SECOND HEARING SO THEY KNOW TO ATTEND ONE HEARING AND ATTEND THE OTHER HEARING.

>> WELL, I THINK IT'S NOT FAIR TO THE CITIZEN WHO ATTENDS THE FIRST HEARING

AND SAYS WHAT, WHAT THE COMMISSIONERS ARE DELIBERATING ON IS A PROHIBITION IN ANOTHER PART OF THE COUNTY SO I DON'T HAVE TO WORRY AND THEN THE ORDINANCE CHANGES SUBSTANTIALLY, MATERIALLY BETWEEN THE FIRST AND SECOND READING.

>> WITH OUR ASSISTANCE, YOU HAVE EXHAUSTED YOUR TIME.

>> THANK YOU,.

>> THANK YOU FOR YOUR ARGUMENTS AND WE WILL TAKE YOUR CASE UNDER ADVISEMENT. THE COURT WILL TAKE ITS MORNING RECESS.