



## **Client Alert: Florida Appellate Court Reverses Summary Judgment in Walton County Sandestin DRI Case Over Public Notice Requirements**

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The decision from Florida's First District Court of Appeal serves as notice for developers, local governments, and land use professionals for the importance of notice requirements involved in Development of Regional Impact (DRI) amendments.

This appeal stems from a homeowner's challenge to the process by which the County amended a development ordinance for a Development of Regional Impact (DRI). In *Osborne v. Walton County*, the appellate court reversed a summary judgment order finding that the County failed to address whether specific public notice requirements under Sections 163.3225 and 380.06, Florida Statutes, applied before adopting a revised ordinance, which modified the DRI Development Order.

### **I. Key Takeaways**

#### Amendments to DRI Development Orders May Trigger Notice Requirements:

The case turned on whether a prior development agreement incorporated into the DRI required future changes—including those proposed through a revised ordinance—to comply with Section 163.3225's enhanced notice provisions. The appellant argued the County bypassed these statutory requirements, rendering the revised ordinance procedurally invalid.

#### Materiality of Changes Matters:

The Appellate Court scrutinized the trial court's decision to only compare the number of entitlements in assessing a substantive or material change from the original ordinance to the revised ordinance. The Appellate Court reasoned that the revised ordinance did more than adjust entitlements. It also approved a settlement agreement resolving litigation between the developer, the County, and master owner's association within the DRI. The inclusion of the settlement agreement substantially and materially altered the substance of the original ordinance such that a new round of notifications was required for the revised ordinance. Section 125.66, Florida Statutes, *see Neumont v. State*, 967 So. 2d at 823 (Fla. 2007).

#### Trial Court's Erred in Relying on Issues not Before the Court:

The Appellate Court also found that trial court erroneously focused on procedure set forth under Section 125.66 – an issue never claimed in violation. Accordingly, the trial court's reliance on Section 125.66 was misplaced and further precluded it from analyzing the statutory framework governing DRIs, development agreements, and amendment thereto.

### **II. What This Means**

The ruling underscores the importance of proper procedural compliance, specifically notice requirements, when amending DRI Development Orders. This holds true especially where historic



development agreements are incorporated. Developers and local governments should closely examine whether their proposed amendments could trigger notice obligations beyond standard zoning or land development changes. The failure to adhere to the correct statutory notice framework could result in legal challenge, delay, and ultimately render amendments or modifications void.

### **III. Recommendations**

#### Audit Historical Agreements Prior to Seeking Amendment:

For existing DRIs, determine whether any development agreements, including those adopted by ordinance, remain in effect, and would be impacted by proposed amendments.

#### Reassess Notice Strategies:

Ensure public hearing notices for DRI modifications comply not only with general procedures, but also with the requirements in Sections 163.3225 and 380.06.

#### Coordinate with Counsel Early:

Developers and local governments should coordinate early in the process with legal counsel to avoid unintended procedural pitfalls that may jeopardize entitlements and minimize the potential for entanglement in multiyear litigation.

If you have questions about how this decision may impact your project or entitlement process, please contact us at [info@llw-law.com](mailto:info@llw-law.com). You can read the full opinion published at *Osborne v. Walton County*, 50 Fla. L. Weekly D343 (Fla. 1st DCA Feb. 21, 2025).