

Tampa Bay Times, St. Pete Beach wins partial victory in court over development rules (4.25.12)

ST. PETE BEACH — The city won a partial victory in court last week in its nearly decade-long battle over development regulations, but the validity of its comprehensive plan is still in question.

Circuit Judge David Demers declared the City Commission did not break the state's open-meeting law last year in a series of closed-door meetings with their attorneys.

"There was no Sunshine Law violation," he said in a letter to the attorneys in the case.

He said that after reviewing multiple meeting transcripts, he found "all conversations" were permitted under the state's Sunshine Law, adding that "any claimed violations" were subsequently "cured" by commission actions.

Demers also ruled that last year's voter referendum was properly held and that the resulting repeals of development-related charter provisions are "all valid."

The judge stopped short, however, of deciding the key issue — whether the city's comprehensive plan, approved by voters in 2008 and backed last year by the Legislature, is valid.

The case was filed by resident Jim Anderson, who wants the court to reject the city's plan.

His attorney, Ken Weiss, argues the Legislature passed an unconstitutional special law to put the plan back into place after Demers, in another case, rejected the original referendum ballot language creating the plan.

"There should be no doubt," Demers said last week, that the Legislature "adopted (the law) to enable St. Pete Beach to pass the comprehensive plan that was the subject of the ordinance invalidated by this court."

What will be at issue is whether the legislation benefits only St. Pete Beach.

The state Constitution requires that public notice be given for any special law before it is passed by the Legislature.

"It was not given in this case," Demers noted. He concluded that the city "may have a hard time" showing the law is a general, rather than a special, law.

That will now have to be fought out in court, but City Attorney Mike Davis said the first hearings may not occur until summer.

"This is the last case," Davis said Tuesday. "Hopefully, the city can finally get some certainty."

He said he is "confident" the city will prevail. "We are very pleased by the judge's ruling," he said.

The city's political wars over development regulations began a decade ago and became a legal battle when a 2006 voter referendum changed the city's charter to require voter approval of building height changes. That charter change was repealed last year by voters.

Last November, the commission settled three of four outstanding lawsuits, but one month later rejected Anderson's offer to settle his case.

"The city had multiple opportunities to resolve by compromising on the plan but has refused to do so," Weiss said. "Now it appears it is possible the city's plan will be invalidated again. The commission only has themselves to blame for this situation."

Anderson wanted the plan to more clearly guarantee beach access, put in place greater setbacks, restrict height or density more and require that developers pay infrastructure costs — changes the commission was unwilling to make.

In recent years, the city has spent more than a million dollars in legal fees defending multiple lawsuits over just those issues.