

## FROM THE COURTS

# Calif. High Court: Online Businesses Face Same Standard as Brick-and-Mortar Stores



DAVID PAUL MORRIS/BLOOMBERG NEWS

The California Supreme Court has revived a lawsuit bankruptcy lawyer Robert White filed against online payment company Square Inc., holding that “visiting a website with intent to use its services is, for purposes of standing, equivalent to presenting oneself for services at a brick-and-mortar store.”

by Ross Todd

The California Supreme Court on Monday breathed new life into a bankruptcy lawyer’s proposed class action claiming Square Inc. violates a state civil rights law by barring bankruptcy professionals from using its online service to process payments.

On Monday, the California Supreme Court held that “visiting a website with intent to use its services is, for purposes of standing, equivalent to presenting oneself for services at a brick-and-mortar store” under the state’s Unruh Civil Rights Act.

“Although mere awareness of a business’s discriminatory policy or practice is not enough for standing under the Act, entering into an agreement with the business is not required,” wrote Justice Goodwin Liu for the court in a unanimous opinion.

The case had drawn considerable amicus interest, with the National Association of Consumer Bankruptcy Attorneys and a coalition of disability and consumer rights groups backing San Francisco bankruptcy lawyer Robert White, and the Internet Association, with counsel from Quinn Emanuel Urquhart & Sullivan name partner Kathleen Sullivan, backing Square.

White sued Square in 2015 claiming that the company’s policy of excluding bankruptcy attorneys from using its payment services defies the California Unruh Act, which protects Californians from discrimination by businesses. White claimed that Square’s user agreement requiring new account holders to assure that they won’t accept payments on behalf of “bankruptcy attorneys or collection agencies engaged in the collection of debt” amounted to “occupational discrimination” against bankruptcy lawyers under the act. The suit, brought on behalf of a nationwide class of bankruptcy lawyers, brings significant potential damages since the law carries statutory penalties of at least \$4,000 per violation.

Judge Jon Tigar of the U.S. District Court for the Northern District of California dismissed White’s claims in 2016, finding that he didn’t have stand-

ing to sue, since he hadn’t actually attempted to sign up for an account after reviewing Square’s policies. But last year on appeal, the U.S. Court of Appeals for the Ninth Circuit certified the following question to the California Supreme Court in White’s case: “Does a plaintiff suffer discriminatory conduct, and thus have statutory standing to bring a claim under the Unruh Act, when the plaintiff visits a business’s website with the intent of using its services, encounters terms and conditions that deny the plaintiff full and equal access to its services, and then departs without entering into an agreement with the service provider?”

On Monday, the California Supreme Court answered “yes” to that question.

Myron Moskowitz of the Moskowitz Appellate Team, who represents White alongside William McGrane of McGrane PC, said Monday that the holding is “broad” and significant, considering that Square and its tech allies were arguing that online businesses should be held to a different standard than brick-and-mortar stores when it comes to Unruh Act claims.

“This case is about standing, ostensibly, but it’s really about immunity,” Moskowitz said. “If someone like Mr. White doesn’t have standing to challenge Square’s discriminatory policy, then Square is effectively immune from Unruh Act claims.”

Moskovitz noted that bankruptcy lawyers were at No. 28 on the list of exclusions in Square’s terms of service, including those accepting payment for pornography and firearms.

“Some of these are lawful occupations,” said Moskowitz, adding that others excluded from the service might follow White in filing suit.

A representative from Square said the company had no comment on the decision. Munger, Tolles & Olson’s Fred Rowley Jr. argued for the company at the California Supreme Court. The company is also represented by counsel at Wilson Sonsini Goodrich & Rosati.

**Ross Todd is bureau chief of The Recorder in San Francisco. He writes about litigation in the Bay Area and around California. Contact Ross at [rtodd@alm.com](mailto:rtodd@alm.com). On Twitter: @Ross\_Todd.**



## CITY OF DORAL NOTICE OF PUBLIC HEARING

All residents, property owners and other interested parties are hereby notified of a **Local Planning Agency (LPA)** meeting on **Wednesday, August 28, 2019 beginning at 5:00 PM**, to consider the following amendment to the Official Zoning Map of the City of Doral. This meeting will be held at the **City of Doral, Government Center, Council Chambers located at 8401 NW 53rd Terrace, Doral, Florida, 33166.**

The City of Doral proposes to adopt the following Resolution:

### RESOLUTION NO. 19-

**ARESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, SITTING AS THE LOCAL PLANNING AGENCY, RECOMMENDING APPROVAL/DENIAL OF, OR GOING FORWARD WITHOUT A RECOMMENDATION TO TRANSMIT AN AMENDMENT TO THE OFFICIAL ZONING MAP OF THE CITY OF DORAL TO THE LOCAL GOVERNING BODY FROM INDUSTRIAL COMMERCIAL DISTRICT (IC) TO DOWNTOWN MIXED USE DISTRICT (DMU) FOR A ±1.66 ACRE PARCEL LOCATED AT 8484 NW 36 STREET, DORAL, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE**

**HEARING NO.:** 19-08-DOR-03

**APPLICANT:** Doral Court Plaza, LLC

**PROJECT NAME:** Doral Court Plaza

**PROJECT OWNERS:** Doral Court Plaza, LLC

**LOCATION:** 8484 NW 36 Street

**FOLIO NUMBER:** 35-3027-001-0241

**SIZE OF PROPERTY:** ±1.66 acres

**PRESENT FUTURE LAND USE:** Office and Residential (OR)

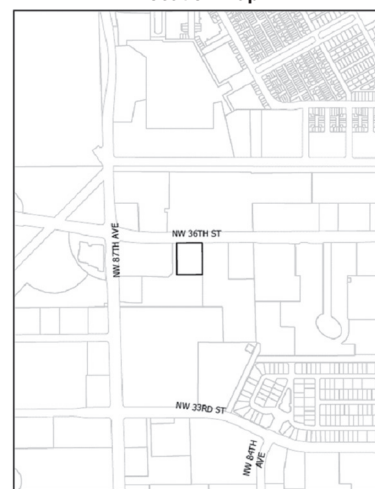
**PRESENT ZONING:** Industrial Commercial District (IC)

**REQUEST:** The Applicant is requesting the rezoning of the property from Industrial Commercial District (IC) to Downtown Mixed-Use District (DMU).

**LEGAL DESCRIPTION:** PARCEL “B”: A portion of the West 847.72 feet of Tracts 29 and 30, of FLORIDA FRUIT LAND COMPANY’S SUBDIVISION NO. 1, in Section 27, Township 53 South, Range 40 East, as recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Northwest corner of said Tract 30; thence North 89°58’53” East along the North line of said Tract 30 for a distance of 609.88 feet; thence South 00°21’28” East for a distance of 55.00 feet to a point lying on the South right of way line of N.W. 36th Street and the Point of Beginning of the herein described parcel of land; thence North 89°58’15” East along said right of way for a distance of 239.71 feet; thence South 01°50’30” East for a distance of 297.24 feet; thence South 89°58’15” West for a distance of 247.41 feet; thence North 00°21’28” West for a distance of 297.14 feet to the Point of Beginning. Containing 72,365 square feet or 1.661 acres more or less. TOGETHER WITH CASTER PARCEL: A portion of the West 847.72 feet of Tracts 29 and 30, FLORIDA FRUIT LANDS COMPANY’S SUBDIVISION NO. 1, in Section 27, Township 53 South, Range 40 East, according to the plat thereof, as recorded in Plat Book 2, at Page 17, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows: Commence at the Northwest corner of said Tract 30; then North 89°58’53” East along the North line of said Tract 30 for a distance of 609.88 feet; thence South 00°21’28” East for a distance of 55.00 feet to a point lying on the South right of way line of N.W. 36th Street (Doral Boulevard) and the Point of Beginning of the herein described parcel of land; thence continue South 00°21’28” East along the West line of the lands described in Partial Release of Unities of Title recorded in Official Records Book 22183, Page 4630, of the Public Records of Miami-Dade County, Florida, for a distance of 297.14 feet; thence South 89°58’15” West, along the Westerly prolongation of the South line of the lands described in said Partial Release of Unities of Title, for a distance of 42.00 feet; thence North 00°21’28” West for a distance of 297.15 feet; thence North 89°58’53” East, along the South right of way line of N.W. 36th Street (Doral Boulevard), for a distance of 42.00 feet to the Point of Beginning. Containing 12,480 square feet or 0.29 acres more or less. EASEMENT ESTATE: Together with a nonexclusive easement for access, parking and utilities more particularly described in the Easement Agreement dated March 29, 2004 by and between ACP/Doral Court, LLC, a Delaware limited liability company and Doral Court Plaza, LLC, a Florida limited liability company recorded April 1, 2004, in Official Records Book 22171, Page 4144, as amended by Relocation of Parking Easement Area Pursuant to Easement Agreement recorded October 20, 2016 in Official Records Book 30276, Page 1981 of the public records of Miami-Dade County, Florida.

### Location Map



Information relating the subject application is on file and may be examined in the City of Doral, Planning and Zoning Department Located at **8401 NW 53rd Terrace, Doral, FL. 33166**. All persons are invited to appear at this meeting or be represented by an agent, or to express their views in writing addressed to the City Clerk, **8401 NW 53rd Terrace, Doral, FL. 33166**. Maps and other data pertaining to these applications are available for public inspection during normal business hours in City Hall. Any persons wishing to speak at a public hearing should register with the City Clerk prior to that item being heard. Inquiries regarding the item may be directed to the Planning and Zoning Department at 305-59-DORAL.

Pursuant to Section 286.0105, Florida Statutes If a person decides to appeal any decisions made by the City Council with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. In accordance with the Americans with Disabilities Act, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Planning and Zoning Department at 305-59-DORAL no later than three (3) business days prior to the proceeding.

NOTE: If you are not able to communicate, or are not comfortable expressing yourself, in the English language, it is your responsibility to bring with you an English-speaking interpreter when conducting business at the City of Doral during the zoning application process up to, and including, appearance at a hearing. This person may be a friend, relative or someone else. A minor cannot serve as a valid interpreter. The City of Doral DOES NOT provide interpretation services during the zoning application process or during any quasi-judicial proceeding.

NOTA: Si usted no está en capacidad de comunicarse, o no se siente cómodo al expresarse en inglés, es de su responsabilidad traer un intérprete del idioma inglés cuando trate asuntos públicos o de negocios con la Ciudad de Doral durante el proceso de solicitudes de zonificación, incluyendo su comparecencia a una audiencia. Esta persona puede ser un amigo, familiar o alguien que le haga la traducción durante su comparecencia a la audiencia. Un menor de edad no puede ser intérprete. La Ciudad de Doral NO suministra servicio de traducción durante ningún procedimiento durante el proceso de solicitudes de zonificación.

Connie Diaz, MMC

City Clerk

City of Doral

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