

FROM THE COURTS

After Losing Election by 9 Votes, Ex-Judge's Challenge Fails Before Georgia Supreme Court



Former Long County Probate Judge Bobby Harrison Smith lost to Judge Teresa L. Odum, above, by nine votes in the June 2020 general election.

by Cedra Mayfield

Good news for Long County Probate Court Judge Teresa L. Odum, whose political opponent has tried to unseat her via litigation: The Supreme Court of Georgia has tossed the election challenge that sought to overturn her nine-vote-margin victory.

"We are elated that the Supreme Court made the decision that it did," said Odum's attorney, Luke Moses of Jones Osteen & Jones in Hinesville. "It helps protect voters from being disenfranchised in the state, particularly those voters who vote by absentee ballot."

In a 7-0 decision, the Supreme Court of Georgia upheld Chatham County Superior Court Judge John Morse's decision to deny a petition by former Long County Probate Judge Bobby Harrison Smith for a new election.

Smith lost to Odum by nine votes in the June 2020 general election.

The high court determined improper votes fell short of the number needed to overturn the election.

"Of the challenged electors, only the ballots of six doubles and one mover should be rejected," wrote Supreme Court of Georgia Justice Carla Wong McMillian for the high court. "Those seven ballots are not sufficient to place the results of the election in doubt, given the nine-vote margin of victory in this case. Accordingly, we discern no error in the trial court's denial of Smith's petition to contest the election."

'SOMETHING WE CAN'T TAKE FOR GRANTED ANYMORE'

Moses said Smith's petition to secure a do-over election extended beyond citing voting irregularities, like nonresident and double-voting to including an attempt to disqualify absentee ballots containing errors.

"Some of those voters had not signed their ballot in the correct place when they cast it," Moses said. "There was an additional person who voted by absentee ballot who testified that he was illiterate and that his wife had filled out his

ballot for him and signed his name. He testified that that vote expressed his will [because] he talked about the choices with his wife."

Moses said although clerical errors existed, the high court allowed such absentee ballots to be counted during the recount, recertifying Odum's victory in a move he said strengthened election law in the state.

"The key takeaway is that the court sided with the voters in this case that when a voter says that a ballot expresses their will, even if the ballot contains errors, ... that the court is going to side with the voters and say that their vote should count," Moses said.

Jake Evans, now a partner at Hall Booth Smith in Atlanta, represented Smith in the election challenge.

"We are disappointed in the court's order, because it is contrary to Georgia law and greatly undercuts election integrity in Georgia," Evans wrote in an emailed statement. "My client, Bobby Smith, remains honored to have served the people of Long County as their probate judge and expresses his gratitude for the opportunity to do so."

Evans' comments echoed prior reaction following the lower court's petition denial in December 2020.

Then, Evans expressed feeling "disappointed and surprised," given what he said was the judge's "acknowledgment of double votes, flawed absentee ballots and applications and people voting in Long County that did not reside there."

Moses pointed out that Evans is running for Congress in a metro Atlanta congressional district, campaigning that "he's the only Georgia lawyer to successfully overturn two elections in the same race."

"He attempted to do that in this case and he and Judge Smith, thankfully, failed," Moses said. "The will of the voters was respected, but that's something we can't take for granted anymore."

Cedra Mayfield is a litigation reporter with the Daily Report, the ALM newspaper in Atlanta. She can be reached at cmayfield@alm.com. Twitter: @cedramayfield.



CITY OF DORAL NOTICE OF PUBLIC HEARING

All residents, property owners and other interested parties are hereby notified of a **Zoning Workshop** on **Thursday, September 2, 2021 at 6:00 p.m.** The Meeting will take place at the City of Doral, Government Center, 1st Floor Multipurpose Room located at 8401 N.W. 53 Terrace, Doral, Florida 33166.

The following application will be presented:

HEARING NO.: 21-09-DOR-01

APPLICANT: Jenny Baez on behalf of Chick-Fil-A, Inc (the "Applicant")

PROJECT NAME: Chick-Fil-A

PROJECT OWNER: Biscayne Apple, LLC

LOCATION: 9815 NW 41 Street, Doral, Florida 33178

FOLIO NUMBER: 35-3020-048-0030

SIZE OF PROPERTY: 1.5 acres

FUTURE LAND USE MAP DESIGNATION: Business

ZONING DESIGNATION: Commercial Corridor District

REQUEST: The Applicant is proposing to demolish the existing building and construct a Chick-Fil-A restaurant with a drive-thru consisting of 4,769 square feet of gross floor area, 56 parking spaces and 33 spaces of drive-thru stack capacity. The site has been designed with a fully customized building to meet the City's requirements and the new, innovative "isolated" drive-thru layout, which keeps the drive-thru operations completely segregated from the rest of operations on site (i.e. curbside pick-up & indoor dining). The primary intent of this project is to relocate the existing Chick-Fil-A located at 3995 NW 107th Avenue.

LEGAL DESCRIPTION:

PARCEL 1:

TRACT "F", OF "DORAL PARK PLAZA FIRST ADDITION", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 147, PAGE 94, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

PARCEL 2:

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR ACCESS, INGRESS AND EGRESS, AND PARKING AS SET FORTH IN RECIPROCAL ACCESS AGREEMENT AND OPERATION AGREEMENT, DATED APRIL 8, 1996, RECORDED APRIL 19, 1996 IN OFFICIAL RECORDS BOOK 17172, PAGE 2315, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

Location Map



ZONING WORKSHOP PROCESS: The zoning workshop consists of two sessions:

1. **First Session.** The first session of a zoning workshop shall provide a forum for members of the public to learn about proposed developments within the city. Developments may be presented to the public simultaneously, in several locations within the meeting site. During this session, members of the public are encouraged to ask questions and to provide feedback to the applicant about the proposed development. The applicant shall provide visual depictions, such as renderings, drawings, pictures, and the location of the proposed development. In addition, representatives of the applicant shall be available to answer questions that members of the public may have about the proposed development. The members of the City Council shall not be present during the first session of the zoning workshop.

2. **Second Session.** The second session of a zoning workshop shall provide a forum for the City Council to learn about the proposed developments discussed at the first session of the zoning workshop. No quorum requirement shall apply. Developments shall be presented by the applicants sequentially, one at a time, for the City Council's review and comment. The applicant shall again present visual depictions of the proposed development. In addition, the applicant shall be available to answer any questions that members of the City Council may have about the proposed development.

No quorum requirement shall apply nor will any vote on any project be taken, but roll call will be taken, as it is a publicly noticed meeting.

Information relating to this request 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**. 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 translation 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 o durante el proceso de solicitudes de zonificación.

Connie Diaz, MMC

City Clerk
City of Doral

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