



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 **October 27, 2021 beginning at 5:30 PM** to consider an amendment to the text of the City of Doral Comprehensive Plan, to incorporate a "Property Rights Element." The 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. 21-

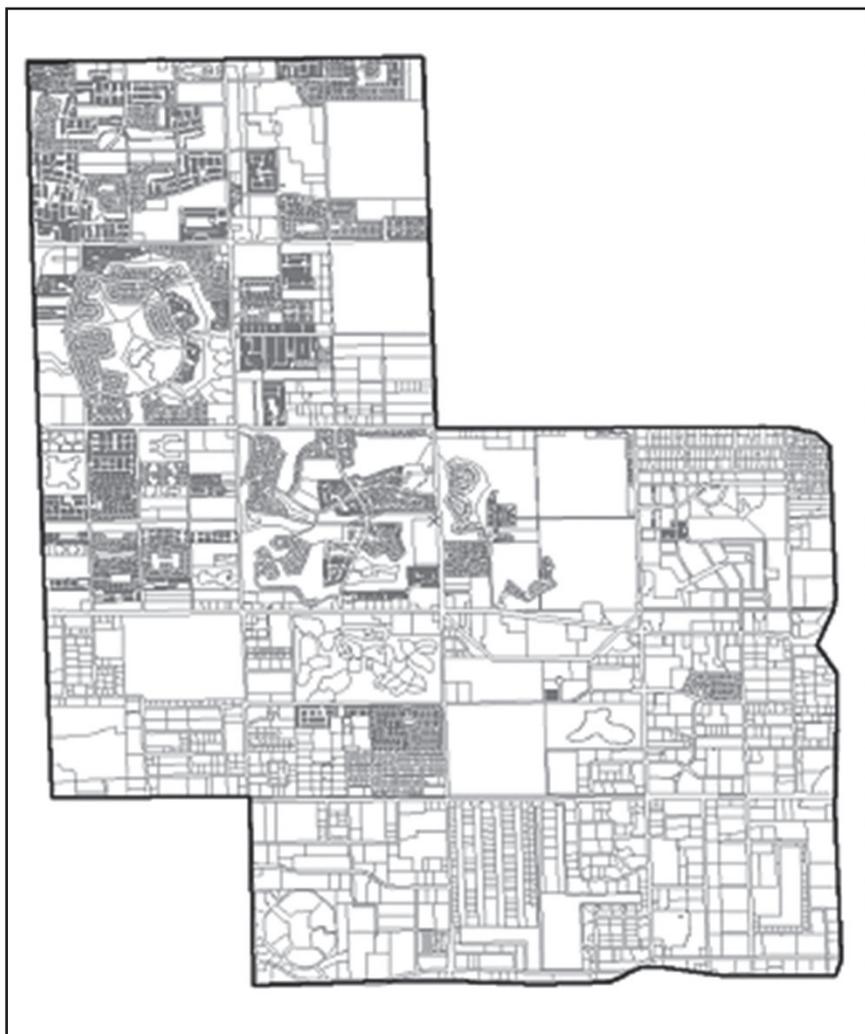
A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, SITTING AS THE LOCAL PLANNING AGENCY, RECOMMENDING APPROVAL / DENIAL OF, OR GOING FORWARD WITHOUT A RECOMMENDATION TO TRANSMIT TO THE LOCAL GOVERNING BODY A TEXT AMENDMENT TO THE CITY OF DORAL COMPREHENSIVE PLAN, TO INCORPORATE A PROPERTY RIGHTS ELEMENT AS REQUIRED BY SECTION 163.3177, FLORIDA STATUTES; AUTHORIZING THE TRANSMITTAL OF THE TEXT AMENDMENT ADOPTION PACKAGE TO THE STATE LAND PLANNING AGENCY IN THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY AND OTHER REQUIRED GOVERNMENTAL REVIEWING AGENCIES PURSUANT TO THE PROVISIONS OF SECTION 163.3184, FLORIDA STATUTES; AND PROVIDING FOR AN EFFECTIVE DATE

HEARING NO.: 21-10-DOR-11

APPLICANT: City of Doral

REQUEST: The City Manager's Office respectfully recommends that the Mayor and City Councilmembers approve an amendment to the text of the City of Doral Comprehensive Plan, to incorporate a Property Rights Element.

Location Map



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, any person 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.

Connie Diaz, MMC
City Clerk
City of Doral

CIVIL PROCEDURE

Fla. Supreme Court Amends Rule That Extends Reach of 'Apex Doctrine'



RAYCHEL LEAN

**Commentary by
Jonathan B. Morton and
Rasheem M. Johnson**

The Florida Supreme Court issued an opinion Aug. 26 amending Florida Rule of Civil Procedure 1.280, officially codifying the common-law "apex doctrine" and extending its reach to high-level corporate officers.



Morton



Johnson

Prior to the opinion, the apex doctrine protected high-level government officials from depositions "unless and until the opposing parties have exhausted other discovery and can demonstrate that the [high-level government official] is uniquely able to provide relevant information that cannot be obtained from other sources."

The purpose of the doctrine was to prevent agency heads from being subjected to the type of harassment that hinders both the efficiency of agencies and state government as a whole.

In the 2019 appellate case *Suzuki Motor v. Winckler*, the First District Court of Appeals held that the apex doctrine could not be applied to corporate officials, and noted, "no Florida court has adopted the apex doctrine in the corporate context." A dissent from Judge Brad Thomas acknowledged this fact but noted that the rationale of the doctrine, protecting high-level officials from harassment and unjustified discovery, is equally applicable to the private sector. The court now takes a similar stance.

The opinion amends Rule 1.280 by adding new subsection (h) titled "Apex Doctrine." Rule 1.280(h) shall read as follows:

(h) Apex Doctrine. A current or former high-level government or corporate officer may seek an order preventing the officer from being subject to a deposition. The motion, whether by a party or by the person of whom the deposition is sought, must be accompanied by an affidavit or declaration of the officer explaining that the officer lacks unique, personal knowledge of the issues being litigated. If the officer meets this burden of production, the court shall issue an

order preventing the deposition, unless the party seeking the deposition demonstrates that it has exhausted other discovery, that such discovery is inadequate, and that the officer has unique, personal knowledge of discoverable information. The court may vacate or modify the order if, after additional discovery, the party seeking the deposition can meet its burden of persuasion under this rule. The burden to persuade the court that the officer is high-level for purposes of this rule lies with the person or party opposing the deposition.⁶

The new rule does not create automatic protection for high-level officers. Rather, it puts the burden on the party resisting deposition to persuade the court that the would-be deponent meets the high-level officer requirement, an (produce an affidavit or declaration explaining the official's lack of unique, personal knowledge of the issues being litigated.

In the opinion, the court refuses to define the term "high-level officer," noting that there is a "rich body of case law applying the term." A proper affidavit or declaration will sufficiently "show the relationship between the officer's position and the facts at issue in the litigation." Parties who fail to meet the standards of Rule 1.280(h) may still seek relief under Rule 1.280(c).

Rule 1.280(h) is effective immediately and applies to pending cases.

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KEY TAKEAWAYS

- Parties in litigation need to be aware of this amendment as it is effective immediately and applies to pending cases;

- Those looking to depose high-level corporate officers need to be aware of the new issues the rule may create for their discovery plan;

- Corporate entities looking to take advantage of the rule should familiarize themselves with the two burdens placed on parties resisting deposition: persuade the court that the would-be deponent meets the high-level officer requirement, and produce an affidavit or declaration explaining the official's lack of unique, personal knowledge of the issues being litigated.

Jonathan B. Morton is a partner in the Miami office of K&L Gates and Rasheem M. Johnson is an associate at the firm.

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