

FROM THE COURTS

Judge: Facebook's Privacy Argument 'Could Not Be More Wrong'



SHUTTERSTOCK

U.S. District Judge Vince Chhabria largely turned back a Facebook request to dismiss claims filed in the wake of the company's Cambridge Analytica scandal.

by Ross Todd

A federal judge is allowing a wide swath of the consumer litigation accusing Facebook Inc. of unlawfully sharing user information with third parties to move forward.

U.S. District Judge Vince Chhabria on Monday largely turned back a request from Facebook's lawyers at Gibson, Dunn & Crutcher to dismiss claims filed in the wake of the company's Cambridge Analytica scandal.

Chhabria wrote that arguments from Facebook's lawyers that users cannot claim a "legitimate privacy interest" in information made available to friends on social media "could not be more wrong."

"When you share sensitive information with a limited audience (especially when you've made clear that you intend your audience to be limited), you retain privacy rights and can sue someone for violating them," Chhabria wrote.

Despite Facebook's disclosures in recent years that application developers could have access to users sensitive information via their friends, Chhabria held that users who established profiles on the site before about 2009 never consented to such third-party access. The judge also found that Facebook had not disclosed the continued sharing of user information to certain "whitelisted" apps and business partners alleged in the latest complaint in the multidistrict litigation. The judge also pushed back against Facebook's contention that plaintiffs' privacy claims alone weren't enough to establish the concrete harm necessary to establish standing to sue in federal court.

"To say that a 'mere' privacy invasion is not capable of inflicting an 'actual injury' serious enough to warrant the attention of the federal courts is to disregard the importance of privacy in our society, not to mention the historic

role of the federal judiciary in protecting it," Chhabria wrote. "The alleged injury is 'concrete' largely for the reasons already discussed—if you use a company's social media platform to share sensitive information with only your friends, then you suffer a concrete injury when the company disseminates that information widely."

Co-lead counsel for plaintiffs in the case, Lesley Weaver of Bleichmar Fonti & Auld and Derek Loeser of Keller Rohrback, said in an emailed statement that they were pleased the court allowed the case to proceed. "We are especially gratified that the court is respecting Facebook users' right to privacy," they said. "We look forward to the discovery that will prove our clients' claims."

Representatives of Facebook didn't immediately respond to requests for comment.

Despite ruling largely for the plaintiffs, Chhabria was still critical of the plaintiffs' latest complaint, which runs 414 pages and 1,442 paragraphs, writing that "at times it seems the plaintiffs sought to identify anything Facebook has ever been reported to have done wrong and then made sure to sprinkle in at least a few allegations about it."

"This strategy interferes significantly with the clarity and effectiveness of the plaintiffs' presentation," the judge wrote.

Chhabria also wrote in a footnote to Monday's ruling that users whose settings allow information to be shared not only with friends, but also with friends of friends, likely lose any expectation of privacy in that information. But the judge noted that the "friends of friends" issue was not "squarely presented" by Facebook's motion to dismiss.

Ross Todd writes about litigation in and around California. Contact him at 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 **Council Zoning Hearing** on **Wednesday, September 25, 2019, beginning at 6:00 PM**, to consider the adoption of the Capital Improvements Element Annual Update (2019) of the Comprehensive Plan and transmittal of the 5-Year Schedule of Capital Improvements to the State Land Planning Agency. The City Council will consider this item for **SECOND READING**. 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 Ordinance:

ORDINANCE No. 2019-25

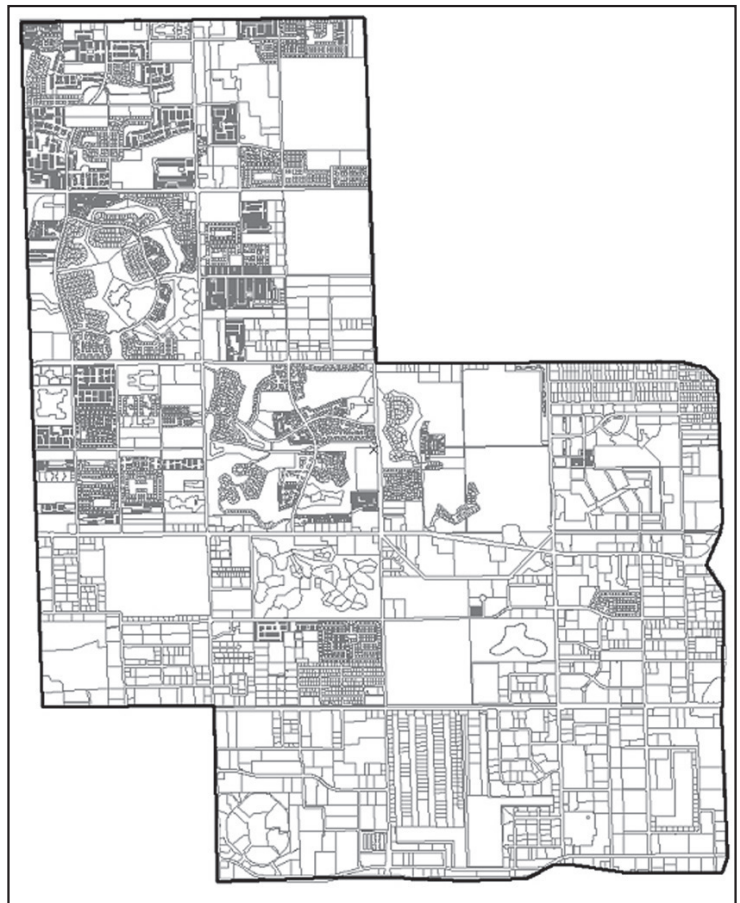
AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, ADOPTING THE 5-YEAR CAPITAL IMPROVEMENT SCHEDULE ANNUAL UPDATE FOR FISCAL YEARS 2019/2020 – 2023/2024 OF THE COMPREHENSIVE PLAN PURSUANT TO SECTION 163.3177(3)(B), FLORIDA STATUTES; PROVIDING FOR TRANSMITTAL OF THE 5-YEAR CAPITAL IMPROVEMENT SCHEDULE TO THE STATE LAND PLANNING AGENCY IN THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

HEARING NO.: 19-09-DOR-03

APPLICANT: City of Doral

REQUEST: Adoption of the Capital Improvements Element Annual Update (2019) of the Comprehensive Plan and transmittal of the 5-Year Schedule of Capital Improvements to the State Land Planning Agency.

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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