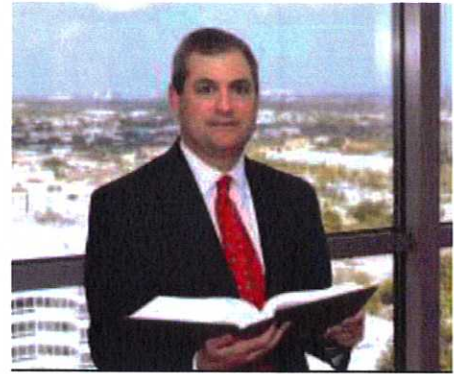


South Florida BUSINESS JOURNAL

February 25, 2011



LEGAL LIMBO

■ The legality of the Community Renewal Act awaits a court ruling as lawmakers push a similar law, attorney Jamie Cole says. **P11**

New Florida growth law is proposed

BY DARCIE LUNSFORD

As the legality of the Community Renewal Act awaits an appellate court ruling, state lawmakers are pushing a new growth management law, which does the same thing.

Senate Bill 174 and its companion House bill seek to end a layer of development requirements for "dense urban land areas," which includes all of Miami-Dade, Broward and Palm Beach counties.

The Community Renewal Act, also known as SB 360, became law in 2009, but faced legal challenges, calling its future into question.

Like SB 360, the current measure would seek to end a costly 38-year-old planning process for major projects known as developments of regional impact (DRI) and remove standing state requirements that developers help pay to upgrade roads. It also requires local governments to conduct mobility fee studies that look at mass transit and new roads to handle new development.

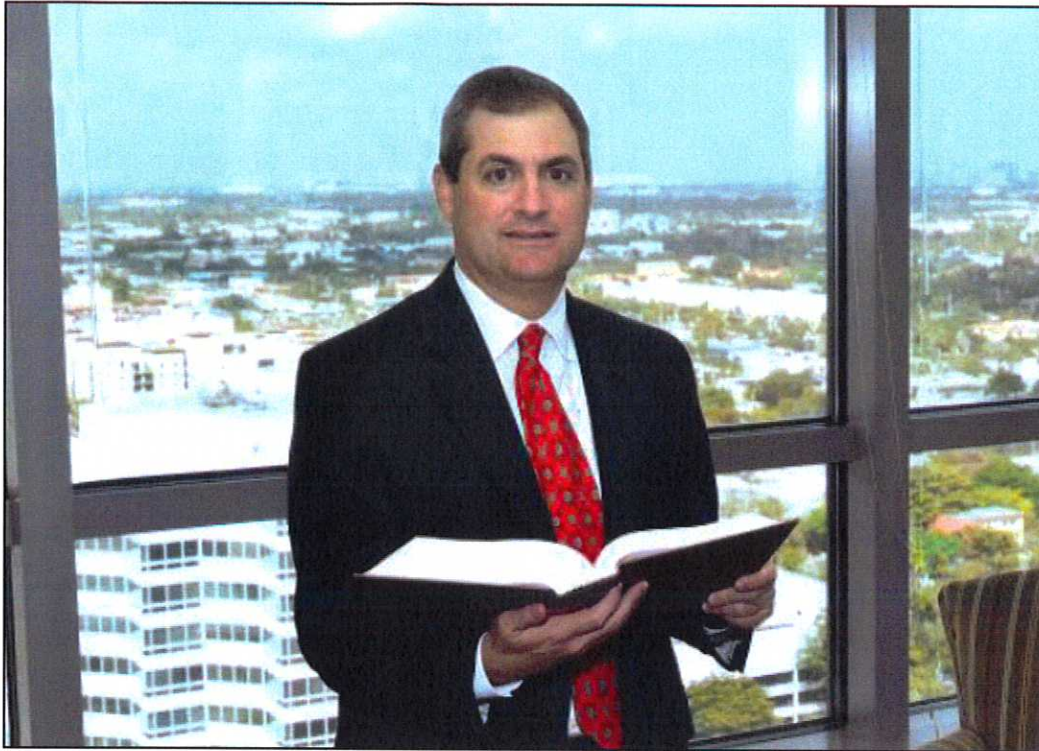
Unlike the Community Renewal Act, SB 174 does not bundle provisions blocking local governments from requiring security cameras in private businesses, and new regulations for affordable housing programs. Those non-growth provisions, along with costs to local governments, provided the basis for 20

local governments, including Weston, Pompano Beach, Homestead, North Miami, Coral Gables and Broward County, to challenge the act as unconstitutional. The governments contended the act violates the Florida Constitution's unfunded mandate provision and its single-topic, bill-making rule.

In August, a Tallahassee judge declared the Community Renewal Act unconstitutional. The state appealed, but no ruling has come from the 1st District Court of Appeal.

"We are just waiting for the ruling, and now it looks like they are going to do something in the Legislature, so it doesn't matter," Weston city attorney Jamie Cole said.

State Sen. Mike Bennett, R-Bradenton, who introduced both SB 360 and SB 174, said this year he got around the lawsuit's concerns by separating the former bill into three parts. Additionally, a two-thirds majority vote of the legislature in favor of the bill would resolve the issue with the unfunded mandates. SB 174 was approved by the Senate's Govern-



MARK FREERKS

Weston city attorney Jamie Cole awaits the ruling on the Community Renewal Act.

mental Oversight & Accountability committee on Feb. 8 and moved into Budget Committee on Feb. 9.

URBAN CORE DEVELOPMENT COULD BENEFIT

Generally, the push to relax development regulations was seen as a way to encourage more development in urban cores, thus stimulating the economy. But, critics say it could stick local taxpayers with the bill for road improvements once paid for by developers.

The statewide legislative arm of the commercial real estate association NAIOP supports the proposed changes.

"I think one of the key reasons that NAIOP is supportive of it is that it is not so much doing a way with growth management but lessening the restrictions of developing within a dense urban land areas," NAIOP Government Affairs Director Jeff Rogo said.

But, he is not certain it will lead to an instant economic boost: "I wish I could tell you this was a silver bullet."

But, Rogo said NAIOP still believes there needs to be some vehicle for addressing the impact of one city's development on another

city, previously done through the DRI process.

The proposed law does that, but on the back end of the approval process through a mandatory dispute resolution process, according to Bob Cambric, special projects manager of the South Florida Regional Planning Council.

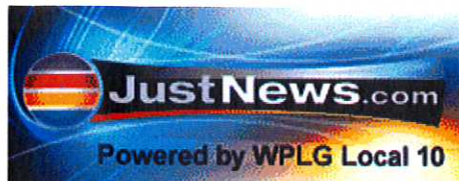
Since the 2009 enactment of the Community Renewal Act, he said, the planning council, has not seen a wave of new projects flood in or projects undergoing the DRI process under the old rules pull out.

Debbie Orshefsky, co-chair of the national environmental and land development practice at Greenberg Traurig, said it's hard to look at SB 174 without looking at the broader push to reform growth management under way.

Chief among them is Gov. Rick Scott's plans to dismantle the Florida Department of Community Affairs, the state's growth management agency.

Orshefsky said: "It is a fundamental shift from top-down [growth management regulation] to bottom-up."

Orlando Business Journal reporter Anjali Ruker contributed to this report.
dunsford@bizjournals.com | (954) 949-7523



Top Stories

Lawyer: Cities' Red Light Camera Contracts Illegal

Story posted 2011.02.22 at 06:34 PM EST



The future of every red light camera in Miami-Dade County is in the hands of a judge after a local traffic attorney claimed in court Tuesday that the cameras are unconstitutional, saying the only purpose is to make money for the cities.

Red light cameras are expensive, but a company called American Traffic Solutions installs them for free. Cities do not have to pay any money up front, and ATS gets paid a flat monthly fee.

In court Tuesday, ticket defense attorney Ted Hollander argued on behalf of about 250 drivers who received a red light camera violation ticket in the mail that the contract ATS has with the cities is illegal.

For example, Coral Gables pays ATS \$4,750 per camera per month. It collects \$75 from each violator who pays the fine. That means each camera in the city must issue 63 tickets per month for the city to break even.

If the cities do not write enough tickets to cover the fee, the company asks for whatever money the cities have collected. Hollander said that amounts to a per-ticket fee.

"If only a certain number of tickets are issued in a certain month, the city only pays that number of tickets times \$75," Hollander said.

But if a city falls short one month, it must make up the difference to the company in the next month. If, at the end of the contract, the city had more bad months than good, ATS said it would forgive the debt and the city would not have to pay the difference.

Michael Popok, an attorney representing five Miami-Dade County municipalities, said it is just the company's way to share the financial risk of using its red light camera program.

"Just because you can take a sum of money and divide it by an amount does not render it a per-fee, per-ticket, illegal scheme or provision," Popok said.

The judge has given both sides 10 days to submit more paperwork, which he will consider before making a ruling