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Fla. Appeals Court OKs City's Denial Of Taxi License

By Nathan Hale

Law360, Miami (November 12, 2014, 7:41 PM ET) -- A Florida appeals court on Wednesday found the Boca Raton City Council acted within its rights when it denied a taxi company an operating certificate for which it had received preliminary approval, saying the council's appeal process does not have to meet judicial standards.

Taxi USA of Palm Beach LLC, doing business as Taxi Taxi, had petitioned the Fourth District Court of Appeal for second-level certiorari review after a circuit court, in a per curiam ruling, upheld the City Council's decision, but a three-judge appeals panel found the company failed to demonstrate it had been denied due process or that there was a miscarriage in justice.

"We are very pleased with the decision of the Fourth District today," said attorney Jamie Cole of [Weiss Serota Helfman Pastoriza Cole & Boniske PL](#), which represented the city. "The decision affirms the ability of Boca Raton in this case, and municipalities in general, to establish reasonable procedures for their hearings. The court affirmed that the city's procedures in this case were appropriate and were followed."

The City Council chose to overturn a hearing officer's initial findings that Taxi Taxi should be granted authority to operate 30 taxis in the city, including three wheelchair-accessible vehicles, based on evidence of the company's capabilities and the community's demand and need for the service.

Taxi Taxi held that the City Council failed to observe the requirements of the city code by using a "hybrid appeal process" that included allowing new evidence and reweighing the evidence at a public hearing held as a result of an appeal of the hearing officer's findings by two other newly authorized taxi companies.

The petition also argued that the City Council denied Taxi Taxi due process because it must have applied a different standard for issuing the certificates of public convenience and necessity to those two companies, Metro Taxi and Your Safe Driver.

"Whether called a 'hybrid appeal' or 'quasi-judicial procedure,' the city code does not contemplate a conventional or strict appellate standard when a challenge to the hearing officer's

determination is sought in the City Council," the appeals panel said.

The opinion cites a Third District ruling that said basic due process requirements are usually met in a quasi-judicial hearing if the parties are provided notice of the hearing and given an opportunity to be heard.

The panel also said that Taxi Taxi failed to identify any clearly established law in the city code saying the Boca Raton City Council could not allow new evidence at its appeals hearing.

"Further, even if allowing evidence to be admitted in the appeal to the City Council was erroneous, [Taxi Taxi] has failed to demonstrate that the circuit court's denial of first-tier certiorari resulted in a miscarriage of justice," the panel said. "This is particularly the case because petitioner admits having presented evidence on its own behalf to the City Council."

Taxi Taxi's argument that the City Council had relied on a different standard when it issued certificates to other companies also fell flat, the judges said, because the city code allows applicants to choose how to demonstrate the community's need for additional taxi service.

"The fact that a hearing officer in an earlier case may have applied a particular standard or ratio based on the number of taxicabs per 1,000 city residents did not preclude another hearing officer, or the City Council, from assessing need based on different evidence or another measure in conformance with the criteria of the code and based on present market conditions," the opinion said.

Counsel for Taxi Taxi declined comment Wednesday.

District Judges Robert M. Gross, Carole Y. Taylor and Spencer D. Levine sat for the Fourth District.

Taxi Taxi is represented by Mitchell W. Berger and Paul S. Figg of [Berger Singerman LLP](#).

Boca Raton is represented by Diana Grub Frieser and by Jamie Cole, Matthew H. Mandel and Laura K. Wendell of Weiss Serota Helfman Pastoriza Cole & Boniske PL.

The case is Taxi USA of Palm Beach LLC v. City of Boca Raton et al., case number 4D14-2397, in the Fourth District Court of Appeal of Florida.

--Editing by Katherine Rautenberg.