

*Key Biscayne Gateway Partners, Ltd. v. Village of Key Biscayne*, No. 3D17-673, 240 So. 3d 84 (Fla. 3d DCA Feb. 21, 2018)

**Property Owner Cannot File Mandamus Action Over Site Plan Condition Limiting Vehicular Access When it is Not a Criteria of Conditional Use Approval**

In *Key Biscayne Gateway Partners, Ltd. v. Village of Key Biscayne*, Key Biscayne Gateway Partners (“Gateway”) applied to the Village for approval of a site plan and conditional use approval to permit development of a Walgreens pharmacy on their property. The Village approved the plan, but with a condition limiting cross-access to the property from an adjacent commercial property to pedestrians, bicycles, and golf carts. Gateway filed an amended petition for mandamus in circuit court, alleging that Village’s criteria were satisfied by the initial application, which permitted vehicles, so there was no legal basis for the condition.

In response, the Village moved to dismiss the petition because the site plan was submitted for approval by the Village as a quasi-judicial body, such that Gateway could not allege a non-discretionary, ministerial duty to approve the application without the cross-access condition. Additionally, the Village served a motion for sanctions on Gateway, alleging that their position was contrary to well-settled law.

Gateway appealed after the trial court dismissed the mandamus petition with prejudice. The trial court reserved ruling on the motion for sanctions, specifying that the motion would be granted if the Village prevailed in Gateway’s appeal to the Third DCA or denied if Gateway succeeded. The Third DCA ultimately held that a mandamus will only command performance of a ministerial act and that the Village’s decision constituted a quasi-judicial fact finding. However, the court held that the sanctions against Gateway should be vacated because their arguments were based on a good faith argument for extension of existing law.