

Chakra 5, Inc. v. City of Miami Beach, 3D16-2569, 2018 WL 3999130 (Fla. 3d Dist. App. Aug. 22, 2018)

Third DCA Upholds Assertion of Procedural Due Process Claim Based on the Enforcement of Zoning Regulations

In *Chakra 5, Inc. v. City of Miami Beach*, Chakra 5, Inc. (“Chakra”) appealed the trial court’s decision to dismiss their claim that the City of Miami Beach Code Enforcement Department (“the City”) violated their substantive and procedural due process rights. In 2006, Chakra purchased and operated an entertainment complex (“the Club”) in Miami Beach. From its inception, the Club received several code enforcement violations which Chakra claimed were unfairly administered.

In 2008, the City code enforcement issued a cease and desist order because of fire-exits that were not code-compliant—even though the City had previously allowed a similar, nearby establishment to remove its fire exits. According to Chakra, “City officials decided they wanted to permanently put the Club out of business and directed code enforcement to do whatever was necessary to achieve that goal.” The cease and desist order, accompanied by various other violations and repeated demands for bribes, forced Chakra to suffer significant financial losses ultimately resulting in the loss of their Club.

Chakra brought two claims against the City, asserting deprivation of their rights to substantive and procedural due process, as stated under 42 U.S.C. § 1983, when the City’s code enforcement department initiated a “campaign of harassment.” The City claimed that Chakra could not proceed with their claims because they had been administratively dissolved and the statute of limitations prevented Chakra from claiming injuries that occurred prior to 2009. The trial court dismissed Chakra’s claims against the City with prejudice and Chakra appealed.

On appeal, the Third DCA rejected Chakra’s substantive due process claim because Florida state courts have consistently rejected substantive due process claims based on the enforcement or application of land-use and zoning regulations. However, the Third DCA held that the trial court erred in dismissing Chakra’s claim for violation of procedural due process because the City’s argument relies on discovery responses outside the scope of the pleadings. The Third DCA reversed and remanded the trial court’s decision.