

*3630 Investment Corp. v. Miami-Dade Cnty*, 17-22925-CIV, 2018 WL 3213489  
(S.D. Fla. June 29, 2018)

### **Southern District of Florida Permits Inverse Condemnation Claim Against a 42-Year-Old Drainage System**

In *3630 Investment Corp. v. Miami-Dade Cnty*, 3630 Investment sued Miami-Dade County (the “County”) for, among other counts, an inverse condemnation claim based on the taking of a marina. This claim is based on the County’s drainage system, which was depositing sediment onto the basin of the marina, preventing certain vessels from accessing and mooring in it.

The main issue in the case was whether 3630 Investment can sue for the taking because the drainage system was constructed 42 years prior. This type of taking, known as an “environmental taking,” which is where the taking of property occurs through a gradual physical process, is very difficult because of the challenge to determine the moment the claim accrues. 3630 Investment alleged an environmental taking because “the County’s storm water outfall pipe releases sediment, gradually, that settles on the basin bottom, and ultimately affects the types of vessels that can dock in the marina.”

To determine when the taking occurred, the court utilized the “stabilization doctrine,” which uses the time when the environmental damage made substantial, permanent impediments on the property so the taking is evident and the extent of damage is foreseeable. However, the County argued that 3630 Investment should have been aware of this issue when they purchased the property from the original purchaser.

This argument was rejected because the frequency and permanency of the issues with the drainage system were uncertain, so it would be unfair to bar 3630 Investment’s claim. Ultimately, the Southern District of Florida held that 3630 Investment had the legal right to sue the County because the taking *may* have occurred after 3630 Investment purchased the marina and began interfering with vessel mooring.