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RELATED CAPABILITIES

Litigation
Property Tax Litigation
Real Estate

LAND USE & DEVELOPMENT RIGHTS

Our Land Use Group is one of the largest and most elite practices of its kind in the state of Florida. The attorneys in this practice utilize their in-depth knowledge of Florida's complex regulatory environment to assist developers and owners of real estate, as well as governmental bodies, in a wide variety of land use matters. Beyond their considerable experience as active lawyers in the field, our team members have gained a unique understanding of the way local governments plan and function based upon their experience in representing local governments. In addition, we have attorneys with experience working in-house for local governments and their insights bring much to bear upon our work.

We assist clients in a wide variety of land use matters, including the following:

- DRI (Developments of Regional Impact) Formation
- Approval and Management of CDDs (Community Development Districts)
- Comprehensive Plan Amendments
- Negotiation of Development Agreements
- Concurrency Review
- Rezoning and Variance Requests
- Impact Fees
- Government Contracting
- Historic Preservation
- Environmental Permitting

Our representation of clients in the above mentioned matters involves regular appearances at hearings and proceedings before local, regional and state boards, commissions and similar agencies. We have great strength in the West Central Florida area, with deep roots in this type of legal work in both Hillsborough and Pinellas counties. We have offices in both Tampa and Clearwater to easily facilitate the handling of land use matters directly and swiftly with local and regional boards and agencies.

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At Hill Ward Henderson, we take a comprehensive approach to land use representation. This includes working in conjunction with our Real Estate attorneys to help clients locate viable sites for development or redevelopment, and identifying any relevant land use issues. We also provide assistance in preparing and negotiating the necessary property purchase contracts and documents, including negotiating the inspection phase. We conduct a thorough land use due diligence throughout this process. In addition, we work closely with our Real Property Litigation Group, to provide legal services for litigation or appeals as needed to provide support to our clients as they progress toward successful completion of a development project.

Zoning & Land Use Litigation

Our Zoning and Land Use Litigation Group handles virtually every type of zoning/land use dispute, including:

- Petitions for Writ of Certiorari challenging rezoning and other land use approvals and denials
- Section 163.3215 Comprehensive Plan consistency challenges
- Section 1983 claims for damages for violation of constitutional private property rights, including equal protection and substantive and procedural due process
- Easements, licenses, restrictive covenants, and other real property use restrictions
- Real property title and boundary issues
- Riparian Rights
- Takings/Inverse Condemnation
- Eminent Domain
- Exactions
- Florida's Bert Harris Act Claims
- Commercial lease disputes
- Real estate sales contract disputes
- Broker disputes
- Trespass and nuisance claims
- Telecommunications equipment siting disputes

Litigation involving zoning and land use issues does not begin at the courthouse; it begins at the administrative level. If an applicant (or objector) waits to prepare its case until the project is ruled upon by the local governing body, in certain circumstances that party may have waited too long.

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Due to the myriad of legal authorities governing such disputes (U.S. Constitution, State Constitution, local ordinances, land use plans, historical guidelines, deed restrictions, administrative agency regulations and case law), the governing body – with its experience and staff of in-house attorneys – has a natural advantage in building a case to support its decision at the administrative level and prior to trial.

Our Zoning and Land Use Litigation Group brings to bear some of the most experienced, successful, and seasoned land use litigation attorneys in the state.

NOTEWORTHY

"They work well collaboratively and know their particular disciplines well."
Client quote, *Chambers USA* 2021.

A client highlights the *"knowledge, professionalism and broad spectrum of expertise among the team members."* *Chambers USA* 2021.

EXPERIENCE

Representative matters include:

- Served as land use counsel in the rezoning application to facilitate the redevelopment of WestShore Plaza, which is one of the largest redevelopment plans in the works in the Tampa Bay region. The redevelopment is a major departure from the current state of WestShore Plaza, which is an enclosed suburban-style shopping mall in the heart of an urban district. Our firm assisted with the filing of the application, coordinating communication with community groups, and presented the matter to City Council.
- Served as land use counsel and obtained land use approvals for one of Amazon's preferred developers, Seefried Industrial Properties. We filed applications for, and obtained approval of the annexation of the property into the City of Temple Terrace, a Comprehensive Plan Amendment and rezoning for 633,000-square-foot distribution center to accommodate 2.4 million square feet of warehouse space including four mezzanine levels, which is one of Amazon's new building prototypes that cater to dense urban areas.
- After an administrative denial of development, Hill Ward Henderson analysed the likelihood of success of litigation, conducted research related to the approvals/denials associated with the case, and filed suit against Hillsborough County. The HWH litigation team then successfully negotiated a settlement with the County of the Land Use/Civil Rights lawsuit for Ag-Mart Produce against Hillsborough County resulting in the sale of property to Hillsborough County. The

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HWH land use team worked with the litigation team to identify opportunities for negotiation with County staff and elected officials and on the technical details regarding the approvals.

- Provided real estate services for Moffitt's acquisition of a new hospital and research campus in Pasco County. The entitlements included modification and amendment of significant planned developments, coordination regarding a master developer's development rights, and allocation of rights to Moffitt. The next steps include the negotiation and finalization of an economic development incentive agreement with the County.
- Negotiated with staff, prepared applications, and advocated at public hearings for the approval of a 42 lot subdivision in north Pinellas County. The project included the Annexation of the property, Land Use Map Amendment, Rezoning, and Site Plan Approval against the protests of neighbors. Several neighbors created an advocacy corporation that filed suit against the City challenging the approval after the initial annexation approval. The firm's strategy included successful navigation of the Countywide Rules to avoid further public hearings and approvals by the Pinellas County Commission – which would likely have not approved the project and political advocacy to avoid Countywide changes that otherwise created another level of density restrictions on the surrounding properties and, depending on the timing, could have prohibited the map amendment from being approved.
- The client purchased a hotel on Clearwater Beach that was constructed in 2015 with fewer units/rooms than was originally approved through a development agreement. Upon its ownership, it sought to add hotel units and a commercial marina to the existing hotel based on the original approvals. The engineer sought to obtain the approvals for over eight months before HWH being hired by the client to facilitate the approvals. Hill Ward Henderson has now prepared applications and approval processes for: (i) two site plan approvals for the additional of a commercial marina; (ii) two development agreements for the allocation of density units from the hotel density reserve; (iii) two additional site plan applications for the amendment to original approvals for the construction of the additional units.
- Acquisition of Rasmussen College property in Pasco County for a new medical office for the BayCare Medical Group. The property is located in a large planned development with significant restrictions on the use of the property. Hill Ward Henderson worked with Pasco County and the transactional team to gain confirmation of the entitlements available and how the county would interpret the change from College (which existed despite the Office zoning) to

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medical office.

- Anclote Harbor development in Tarpon Springs. This is a 465-unit apartment project to be developed on the Anclote River in Tarpon Springs, FL and involved complex analysis of land use entitlements and negotiation of transfer of rights to upland property.
- Successfully negotiated a land swap with City of Clearwater for construction of a new corporate headquarters in another segment of the City. Project required amendments to city ordinances to allow development to proceed on property owned by the City outside of downtown so the City could take control of a key parcel in the city's Community Redevelopment Agency area.
- Led the team to negotiate and plan a significant land use plan amendment for a city owned golf course to be redeveloped into an industrial complex. This required working with planners on the site development, negotiating a long term ground lease with the City of Clearwater, coordinating political consultants regarding the proposed referendum. A successful referendum would have provided the pathway for eventual approval of a land use map amendment and rezoning and site plan approval for 750,000 square feet of light industrial/technology and research uses. The referendum was unsuccessful.
- The firm represents on various renovation and new development projects in Pinellas County. Specifically, Hill Ward Henderson assisted in the preparation of revised development agreements and site plans for two projects on Clearwater Beach which will be connected by a pedestrian overpass – the first of its kind on the Pinellas Beaches. The approval was controversial as the City Council had previously expressed reservations regarding the approval of a pedestrian overpass

Representative matters for our Land Use Litigation Group include:

- Represented developer challenging Florida county's denial of rezoning application to develop agricultural land into 1,600 single family homes. After 9 months of litigation, county settled lawsuit by agreeing to purchase client's property for \$38,000,000.00.
- Obtained \$16,428,376.00 circuit court judgment on behalf of apartment developer bringing claims for violation of developer's civil rights against Florida county.
- Represented developer in case against municipality for violating ordinances and Equal Protection Clause in refusing to grant permits for client's high-rise condominium. Obtained court rulings requiring municipality to issue the disputed development permits, and resulting in a \$3,750,000 monetary payment to client—largest

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- amount ever paid by municipality in settlement of a land use case.
- Prevailed at trial defending title and boundary claims against real estate owner/developer's \$1 billion mixed-use development.
- Several cases representing apartment developers' challenges to Florida municipality's rezoning denial for apartment developments. After initial pleadings filed in each case, municipality settled case allowing developments to proceed.
- Defended developer in six separate lawsuits brought by preservationists in Florida state and federal courts seeking to prevent client's re-development of historic Belleview Biltmore Hotel site. Obtained dismissal of all six cases without any delay to client's development schedule and plan.
- Defended developer of a commercial retail development against claims by environmental group challenging land use approvals – after six months of litigation and on the eve of trial, environmental group voluntarily dismissed the case.
- Prevailed at trial on behalf of publicly traded real estate investment trust in defense of a claim to ownership of two acres of submerged land in front of client's waterfront luxury hotel property.
- Defended developer in two lawsuits filed in Sarasota County by objectors to client's proposed 1,100 single-family home development. Both lawsuits resulted in judgment for client—allowing development to proceed.
- Represented apartment developer prosecuting claims against municipality for unconstitutional exactions and violation of constitutional rights of due process and equal protection in connection with apartment development. After complaint filed, municipality paid \$700,000 to settle the case.
- Defended regional hospital in suit brought by objectors seeking to prevent major Tampa hospital expansion. Court dismissed case, allowing client to proceed with expansion.
- Represented residential developer in case against Florida county and concrete plant owner seeking to revoke development permits for plant operating next to client's property. Court rulings resulted in revocation of permits and closing of concrete plant.
- Represented landowner/developer in eminent domain case brought by Georgia Department of Transportation ("GDOT") condemning 2.16 acres of client's property on Interstate 285 in Atlanta. After initial offer of \$5,200,000 from GDOT, case settled for \$13,250,000 after five days of testimony.
- Represented landowner in an eminent domain case against Pasco County, Florida for condemnation of 3.6 acres. After jury trial, client

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recovered \$2,058,962.12 from County after initial offer of \$676,548.

- Represented developer of \$3.5 billion Water Street Tampa development in connection with condemnation and resolution of dispute relating to downtown flour mill. Resolution of case enabled relocation of flour mill, and completion of developer's overall plan of development for downtown/Channelside district.

NEWS & INSIGHTS

Hill Ward Henderson Attorneys and Practices Receive 2022 Chambers Recognition

6.1.22

Hill Ward Henderson Attorneys and Practices Receive 2021 Chambers Recognition

Firm News, 5.20.21

Hill Ward Henderson Receives National and Regional Rankings from U.S. News – Best Lawyers® 2021

Firm News, 11.5.20

Governor Ron DeSantis Appoints Ed Armstrong to the Southwest Florida Water Management District's Governing Board

Firm News, 10.9.20

Hill Ward Henderson Attorneys and Practices Receive Chambers USA 2020 Recognition

Firm News, 4.23.20

Hill Ward Henderson Receives National and Regional Rankings from U.S. News – Best Lawyers® 2020

Firm News, 11.1.19

Hill Ward Henderson Attorneys and Practices Receive Chambers USA 2019 Recognition

Firm News, 4.25.19

Hill Ward Henderson Recognized By Chambers And Partners 2018

5.8.18

CLIENT ADVISORIES

New Edition of Florida Building Code in 2021_Vesting Development Approvals under Old Code

Advisory, 12.2.20