

Court gives Boca residents a win in land-use dispute

Court: Development fight should go to wider vote to possibly override City Council decision

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For the second time in the past 30 days, courtroom jousts over land-use disputes have won a group of citizens the right to override the City Council's vote and bring the issues to citywide referendum.

The 15th Circuit Court last week declared that a group of citizens opposed to the City Council's approval of Archstone, a mammoth, downtown [rental](#) housing complex, can put a question affecting that development on the ballot. This ruling comes on the heels of a September decision that directs [Boca Raton](#) to go forward with a citizen group's referendum on whether members-only beach clubs should be prohibited on coastal public land by ordinance.

That appellate court ruling was spurred by a proposal to lease a 15-acre parcel called the Ocean Strand to a developer and was allowed to go into effect without challenge.

The citizen's group behind the proposed referendum that the City Council in 2010 denied has signaled its willingness to forego a referendum. Representatives have stated that a vote could be avoided if the City Council passed an ordinance stating that public, coastal lands will not be used for members-only uses.

In this latest case, however, an appeal of the circuit court's decision has not been ruled out. The City Council will be deciding its next step at a closed-door session scheduled for Halloween. And the lawyer representing the developer sounds like he's ready for round two in this fight.

Charles Siemon, representing the developer, said that the Judge Lucy Chernow's decision is wrong and "contrary to settled law." "We ... are confident the Legislature did not intend this result and in due course will decide that," he said, explaining that plans for private property are not usually subject to referendum. "But due course is not soon enough for an investor. Every day that goes by there is a lost opportunity [cost](#)."

The attorney for the citizens' group, Ralf Brookes, said that the decision is not unprecedented, however, particularly considering the city's Charter. "The Charter provision allows [City Council] votes to be reviewed by the people," said Brookes, who also represented those wanting an ordinance prohibiting "members-only" signs on public, coastal lands. "If the local officials are not going to protect the best interest of the people, the people are going to utilize the most direct democracy they can," Brookes said.

Siemon, however, dismisses the idea that Archstone's opponents represent interests beyond "a small band of people who don't trust the democratic process" the City Council followed.

Those who promulgated the lawsuit against Archstone, however, said the speed of the downtown rental project's approval left little time for organized opposition. They say they had no trouble garnering 1,100 signatures asking for the referendum, which the City Council rejected.

Boca resident Kathleen Kennedy, who hired Brookes, said ... "Our attorney went up against three attorneys for the city; three attorneys for the developer," she said. "Our one little attorney was able to express that the citizens should get a chance to vote on it."

