

IN THE SECOND DISTRICT COURT OF APPEAL, LAKELAND, FLORIDA

June 27, 2012

CHARLOTTE COUNTY, a political)
subdivision of the State of Florida,)
)
Appellant,)
)
v.)
)
ROTONDA PROJECT, LLC, a Florida)
limited liability company,)
)
Appellee.)
_____)

CASE NO. 2D10-4110

BY ORDER OF THE COURT:

Upon consideration of Appellant's motion for rehearing, motion for rehearing en banc, motion requesting issuance of written opinion, and motion for certification, the motion for rehearing is granted only to the extent necessary to correct the scrivener's error and is denied in all other respects; the motion for rehearing en banc is denied; the motion for written opinion is granted, and the opinion dated September 11, 2011, is hereby withdrawn, and the attached opinion is substituted therefor; and the motion for certification is denied.

No further motions for rehearing will be entertained.

I HEREBY CERTIFY THE FOREGOING IS A
TRUE COPY OF THE ORIGINAL COURT ORDER.

JAMES R. BIRK HOLD, CLERK

cc: Philip Fairman, Assistant County Attorney
Michael T. Burke, Esq.
Tamara M. Scrudgers, Esq.
Robert L. Donald, Esq.
Thomas M. Dougherty, Esq..
Clerk of Court

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

CHARLOTTE COUNTY, a political
subdivision of the State of Florida,

Appellant,

v.

ROTONDA PROJECT, LLC, a Florida
limited liability company,

Appellee.

Case No. 2D10-4110

Opinion filed June 27, 2012.

Appeal from the Circuit Court for Charlotte
County; James R. Shenko, Judge.

Philip Fairman, Assistant County Attorney,
County Attorney's Office, Port Charlotte, and
Michael T. Burke and Tamara M. Scrudders
of Johnson, Amselmo, Murdoch, Burke, Piper
& Hochman, P.A., Fort Lauderdale, for
Appellant.

Robert L. Donald of Law Office of Robert L.
Donald, Fort Myers, and Thomas M.
Dougherty of Geraghty Dougherty & Edwards,
Fort Myers, for Appellee.

DAVIS, Judge.

Charlotte County challenges the final judgment entered in favor of
Rotunda Project, LLC, awarding damages for a taking in an inverse condemnation

action. Rotunda alleged that Charlotte County, by its actions, inactions, and regulations, deprived Rotunda of the economic use of its property and denied Rotunda its reasonable "investment-backed expectations," thereby causing an as-applied or partial taking as described in Penn Central Transportation Co. v. City of New York, 438 U.S. 104, 124 (1978).

Our review of the record indicates that there is little disagreement as to the facts of this case and that the issue on appeal is whether these facts support a finding of a compensable taking by the County. We agree with the trial court's well-reasoned Order on Liability and affirm the finding "that Charlotte County by its regulations, actions and inaction has caused a substantial deprivation of the economic use of [Rotunda's] property and denied [Rotunda's] reasonable investment-backed expectations in violation of article X, section 6 of the Florida Constitution." Because the County did not appeal the amount of the damages awarded, we affirm the final judgment without further comment.

Affirmed.

KELLY and MORRIS, JJ., Concur.