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Fred Grimm: Turns out, unseemly practices aren't illegal for developers

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It doesn't much matter if developers employ lowdown tactics; if they wheedle, cajole, bully, induce, mislead, secretly manipulate, pay off — whatever it takes to wrest approval for controversial projects.

Unseemly, it turns out, is not the same as illegal.

After a month-long trial a Miami-Dade jury last week went through a verdict form with a long checklist enumeratoring the ways the Related Group might have inveigled approval for a bayfront condo project next to Mercy Hospital in Coconut Grove.

The jury voted yes — 28 times. Jurors found that Related held backroom meetings with former Mayor Manny Diaz and various Miami city commissioners trying to elicit zoning variances for the three luxury condo towers. They found that the builder had hired well-connected lobbyists to work the city commission. That Related hired another set of lobbyists to make sure the county commission wouldn't interfere.

The jury decided that Related hired away an assistant city manager to wangle the city commission's approval. That the company paid "substantial sums of money" to a pair of "consultants" because they were "known to be closely associated" with Commissioner Michelle Spence-Jones, whose vote was considered crucial.

The jury said yes, Related did indeed hire "a large number of persons" to attend a crucial city commission to "create the false impression of strong community support for the project."

And the jury showed that it was offended by the secret millions the company offered two local neighborhood associations to support a condo project they had previously found unpalatable.

The jury considered those various sins and decided that Related had been ruthless, as it rolled over opposition from the Vizcayans, a support group for the nearby Vizcaya Museum and Gardens. Related coaxed a favorable 3-2 vote out of the city commission in 2007. The Vizcayans, however, sued and eventually won an appeals court decision that killed the project.

In January, the Vizcayans were back in court arguing that Related should be required to reimburse the group for its $1.3 million in legal expenses. The jurors' collective disgust came in at $3.1 million.

But Miami-Dade Circuit Judge Daryl Trawick tossed the verdict. The jurors were stunned. "We think they did manipulate the political system," jury foreperson Maria Utrera told the Herald's Scott Hiaasen. "The evidence showed that what they did was wrong."

Wrong, maybe. Offensive, certainly. But not unlawful. If Judge Trawick had ruled otherwise, he would have cast doubt on the very template Florida developers employ to get controversial developments approved. Related, after all, was only doing what developers do.

They hire whole platoons of power boy lobbyists. They find jobs for close friends and relatives of city and county commissioners. They employ key city and county bureaucrats to run their projects. They and all their flunkies make maximum campaign contributions. Then they send generous contributions to commissioners' favorite charities. They put former city and county commissioners on their payrolls. And when commissioners meet to consider their projects, they pack the room with faux "supporters," all decked in T-shirts with pro-development slogans.

And, of course, they buy off neighborhood associations.

Unfortunately, in Florida, payoffs to quasi-government associations don't quite meet the legal definition of political bribery. In 2007, investigators in Pinellas County wired a developer who thought he was being shaken down by the president of a mobile home owners association. "Last time we met, you told me if I gave you 50 grand, you could make these problems go away," the developer reminded the association president, who promised him, indeed, that he could make local opposition to his project disappear. "John, I do not go back on my f---ing word."

But it wasn't enough. An assistant state attorney explained to the Tampa Bay Times, "Some things aren't right, but they don't rise to the level of a crime."

There was a time when developers tamped down opposition from homeowner and condo associations with in-kind sweeteners. They'd widen a road or fix a park or landscape the swales or erect some street lights. But the inducements have evolved into gobs of money. In 2006, even as Related was dredging up support for its condo towers in Coconut Grove, the company was paying $250,000 to the Northwood Coalition of Neighborhoods to make way for another condo project in West Palm Beach. Somehow, the homeowner association lost track of $34,350 of that money, according to the Palm Beach Post. The Post, reporting on the scandals associated with these money deals, also reported that a developer called Hovstone Properties Florida paid $25,000 to the officers of another association in Palm Beach Gardens, who divvied up the money among 11 homeowners — free to spend it as they wished. No civic improvements required.

Behavior that might get an elected official indicted on corruption charges goes unremarked among the board members of homeowner and condo associations. The infamous developers Bruce and Shawn Chait implicated a number of city and county commissioners in a bribery scandal as they sought the zoning changes needed to build 728 townhouses on two Tamarac golf courses. At the same time, the Chaits were greasing the adjacent homeowner associations with $1 million to get behind their controversial development. The Chaits, the infamous corrupters, had accidentally indulged in legal payoffs.

The Mercy Hospital project was unusual only in the giant sums Related promised two neighborhood groups. Related Chairman Jorge Pérez wrote in his 2009 book Powerhouse Principles: The Ultimate Blueprint for Real Estate Success in an Ever-Changing Market (with a foreword written by Donald Trump himself) that he had tried to keep the size of the promised Mercy payoffs, totaling nearly $8 million, secret, else that might inflate the cost of buying cooperation from other neighborhood groups. Hiaasen reported that during the trial, Pérez said payments to neighborhood associations have become routine. "I'm doing that on probably 10 projects right now."

Certainly, the price has risen over the years. In 1993, Mercy Hospital paid these same two local neighborhood associations (representing the adjacent Natoma Manors and Bay Heights), $125,000 each to buy a little love for a hospital expansion.

This is just how developers do it. How controversial projects get approved and built in South Florida. And, as Judge Trawick noted, no matter how sleazy it looks, it’s legal.

Back in 2006, Marc Sarnoff, then president of the Coconut Grove Village Council, regretted that the two homeowner groups, for enough money, could forget about the traffic and congestion and three new high-rise towers spoiling the bayshore. “Traffic is traffic,” he warned the associations. “A dollar in your pocket won’t change that one iota.”