

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

MARGATE COMMUNITY REDEVELOPMENT AGENCY, a
dependent district of the City of Margate, Florida, and
THE CITY OF MARGATE, FLORIDA,
Appellants,

v.

NEW URBAN COMMUNITIES, LLC, a Florida limited liability company,
Appellee.

No. 4D20-1763

[April 28, 2021]

Appeal of a nonfinal order from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Michael A. Robinson, Judge; L.T. Case No. CACE 18-004869(13).

Lyman H. Reynolds, Jr., of Roberts Reynolds Bedard & Tuzzio, PLLC, West Palm Beach, for appellant City of Margate.

Michael T. Burke and Selena A. Gibson of Johnson, Anselmo, Murdoch, Burke, Piper & Hochman, P.A., Fort Lauderdale, for appellant Margate Community Redevelopment Agency.

Michael W. Moskowitz and Ari J. Glazer of Moskowitz, Mandell, Salim & Simowitz, P.A., Fort Lauderdale, for appellee.

PER CURIAM.

We reverse the trial court's non-final order denying the Appellants' motions to dismiss. We agree with the Appellants that the two tort claims at issue are barred by sovereign immunity because they are premised on the denial of a land use plan amendment, which is a discretionary governmental function. *See Com. Carrier Corp. v. Indian River Cty.*, 371 So. 2d 1010, 1020 (Fla. 1979) (recognizing that the waiver of sovereign immunity in section 768.28, Florida Statutes, does not extend to "discretionary governmental functions"); *Trianon Park Condo. Ass'n, Inc. v. City of Hialeah*, 468 So. 2d 912, 919 (Fla. 1985) ("Clearly, the legislature, commissions, boards, city councils, and executive officers, by their enactment of, or failure to enact, laws or regulations, or by their issuance

of, or refusal to issue, licenses, permits, variances or directives, are acting pursuant to basic governmental functions performed by the legislative or executive branches of government.”); *City of Pembroke Pines v. Corr. Corp. of Am., Inc.*, 274 So. 3d 1105, 1113 (Fla. 4th DCA 2019) (recognizing case law “applying sovereign immunity to bar recovery of economic damages against a municipality for the denial of a development application”).

We remand for the trial court to grant the motions to dismiss and dismiss the two tort counts at issue.

Reversed and remanded with directions.

GROSS, GERBER and KUNTZ, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.