

## Recent Court Decisions Highlight Zoning Enforcement Challenges

Article

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The Eleventh Judicial Circuit Court, sitting in its appellate capacity, recently found in two similar cases that Miami-Dade County violated property owners' due process rights by citing them for code violations using incorrect zoning regulations.

### Case Summaries

In *RR 1 Developer, LLC v. Miami-Dade County Dept. of Regulatory and Economic Resources*, Case No. 2023-60-AP-01, 32 Fla. L. Weekly Supp. 195a (Fla. 11th Cir. June 25, 2024), the County cited a property owner for 47 code violations based on the property's agricultural future land use designation in the County's Comprehensive Plan. However, the property was fully compliant under its assigned industrial zoning district. The County argued that the Comprehensive Plan agricultural designation superseded the industrial zoning designation for code enforcement purposes. The Court disagreed, ruling that the zoning district, not the Comprehensive Plan, controls current property regulation and use. The Court clarified that the Comprehensive Plan is merely a legislative guide for future development.

A similar ruling followed in *Oligon Properties, LLC v. Miami-Dade County Dept. of Regulatory Economic Resources*, Case No. 2023-72-AP-01, 32 Fla. L. Weekly Supp. 327a (Fla. 11th Cir. Sept. 13, 2024). The Court cited *RR 1 Developer, LLC*, incorporated its opinion by reference, and ruled for the property owner on the same basis.

### Key Takeaways

These decisions highlight potential problems in the code enforcement process and the difficulties local governments face in interpreting and applying complex zoning and land use regulations. Code violations often involve challenges to fundamental business operations or property uses that can be difficult to correct. However, failing to quickly resolve violations (often by terminating the offending use) can result in hefty fines.

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**Action Steps for Property Owners**

Property owners who receive notice of zoning or land use violations should move quickly to understand the nature of the alleged violation, obtain legal or other counsel as needed, and act diligently to either correct the violation or begin preparing to challenge the violation before a hearing is set.