

NOT FINAL UNTIL TIME EXPIRES  
TO FILE RE-HEARING MOTION,  
AND, IF FILED, DISPOSED OF

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT, IN  
AND FOR MIAMI-DADE COUNTY,  
FLORIDA

APPELLATE DIVISION  
CASE NUMBER: 12-351 AP  
LOWER CASE NO.: 2012-9

ERROL ALVEY, CHARLES M.  
BARON, SHELLY CLAY, and  
ROBERT TAYLOR,

Petitioners,

v.

CITY OF NORTH MIAMI BEACH,

Respondent,

\_\_\_\_\_ /

Opinion filed May 19, 2014.

On Petition for Writ of Certiorari from final administrative action of the City Council of  
the City of North Miami Beach.

Charles M. Baron from the Law Offices of Charles M. Baron, P.A., for Petitioners.

Darcee S. Siegel, City Attorney, for the Respondent.

Rod A. Feiner from Coker & Feiner, for the Intervenor Braha Dixie, LLC.

Before SCHLESINGER, CYNAMON, and WOLFSON, JJ.

PER CURIAM.

*Al*  
*ERROL*  
*Jm*

John Schlesinger  
Court Judge

THE  
UNITY  
CIRCUIT  
CLERK  
MIAMI  
COUNTY  
FLORIDA

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JACQUELINE ABU NASSAR

On review of a quasi-judicial administrative determination rendered by a local government agency, the circuit court must resolve three issues: 1) whether the decision is supported by competent substantial evidence; 2) whether the essential requirements of the law have been observed; and 3) whether due process has been accorded. *City of Deerfield Beach v. Valiant*, 419 So. 2d 624, 626 (Fla. 1982); *Florida Power & Light Co. v. City of Dania Beach*, 761 So. 2d 1089, 1092 (Fla. 2000); *Broward Cnty. v. G.B.V. Int'l, Ltd.*, 787 So. 2d 838, 843 (Fla. 2001).

This Court may only ascertain if evidence presented to the City Council constitutes competent substantial evidence. Competent substantial evidence must “[b]e such relevant evidence as a reasonable mind would accept as adequate to support a conclusion.” The Court is limited to determining whether the findings and decision below were supported by competent substantial evidence. *De Groot v. Sheffield*, 95 So. 2d 912, 916 (Fla. 1957). This Court determines that based on the record before it, the evidence presented constituted competent substantial evidence.

This Court performs a limited review to determine whether Respondent observed the essential requirements of the law. Only a miscarriage of justice, not a legal error, may constitute a failure to observe the essential requirements of the law. *G.B.V. Int'l, Ltd.*, 787 So. 2d at 843-844. Such a perceived error in law must approach fundamental defectiveness or unjustness. *See Miami-Dade Cnty. v. Omnipoint Holdings, Inc.*, 863 So. 2d 195, 200 (Fla. 2003). This Court determines that based on the record before it, the essential requirements of the law have been met.

This Court determines that procedural due process was accorded by sufficiently disclosing ex-parte communications between City Council Members, representatives of the Intervenor and members of the public pursuant to the obligations set forth both in the City of North Beach Resolution R95-24 and §286.0115(1)(c), Fla. Stat. (2012), prior to the final vote being taken.

Accordingly, the issues having been resolved, the Petition for Writ of Certiorari is

**DENIED.**

Copies furnished to:  
Charles M. Baron, Esq.  
Darcee S. Siegel, Esq.  
Rod A. Feiner, Esq.