

Talbot v. City of Tampa: A Partially Obstructed View Is Not Enough to Challenge a Neighbor's Development

What the Ruling Means for Developers and Property Owners

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Highlights

- A private party cannot obtain injunctive or declaratory relief to compel a municipality to enforce its zoning ordinances against a neighboring property owner.
- A zoning-enforcement plaintiff must establish “special damages” to bring a claim. Adjacency and proximity are relevant, but do not themselves establish standing.
- A partially obstructed view, without additional injury, is insufficient to create standing.

BOTTOM LINE

Developers defending approved projects, and owners weighing a challenge to a neighboring project, should measure standing against the special damages analysis in *Talbot* and address height and view concerns during the approval process, not after construction.

Facts of the Case

Talbot, LLC owns the historic Stein building in Ybor City, leased to a nightclub with a rooftop bar. The adjacent Miles Ybor building sits in the same YC-1 historic district, where the City of Tampa Code caps height at 45 feet and excludes certain features, such as parapet walls, from height calculations. In 2020, the Barrio Latino Commission granted the developer's predecessor a variance to 54 feet. Talbot alleged that it did not oppose or appeal the variance because the predecessor assured it that the new building would not exceed the Stein building's height. Once the building was substantially complete, Talbot sued the City and the current owner, alleging that the new parapet stood eight feet above its own and partially blocked its skyline views, and asked the court to unwind the variance. The trial court dismissed with prejudice, concluding among other things that Talbot lacked standing, and on September 25, 2026, the Second District affirmed and certified a standing question to the Florida Supreme Court.

What the Court Decided

Claims against the City. Applying *City of West Palm Beach, Inc. v. Haver*, 330 So. 3d 860 (Fla. 2021), the court held that a private party cannot obtain injunctive or declaratory relief requiring a municipality to enforce its zoning ordinances against a neighbor. However, a narrow exception exists where a private party alleges that a governing body violated its own zoning ordinances, which Talbot did not allege. A claim directly against the neighboring owner remains available, subject to the standing requirement discussed below.

Special damages. For a private zoning-enforcement claim (a *Boucher* claim), the plaintiff must show special damages under *Renard v. Dade County*, 261 So. 2d 832 (Fla. 1972), defined as: “a definite interest exceeding the general interest in community good share[d] in common with all citizens.” Proximity, the character of the neighborhood, and the type of change are factors in that analysis. Talbot relied heavily on the fact that its building sits next door. The court held that adjacency did not carry the claim where the only injury alleged was a partially obstructed view.

Partial loss of view. The court found no Florida decision holding that a partially obstructed view, without additional injury, is sufficient injury under the special damages rule. It held that “a partial obstruction of view is an insufficient injury absent some other injury to meet the special damage requirement to prove standing.” The court distinguished its earlier decision in *Chapman v. Town of Redington Beach* (2019), where the plaintiff alleged blocked views together with safety and value impacts, and noted that its holding is consistent with decisions finding special damages where view loss was paired with lost access or increased flooding risk. It also noted longstanding Florida authority that, absent a contractual or statutory obligation, a landowner has no legal right to unobstructed light, air, or view across adjoining land.

The Standing Standard and the Certified Conflict

The court also declined to adopt the federal “injury in fact” standard, concluding that a 2004 Florida Supreme Court footnote in *State v. J.P.* was likely dicta and did not displace Florida’s standing precedent. It likewise declined to follow the Fourth District’s decisions in *Everett Bros. Recycling, Inc. v. Martin County* (2025) and *Citizens for Responsible Development, Inc. v. City of Dania Beach* (2023), which layer the special damages requirement onto the federal three-part test for standing. The court certified conflict with those decisions and seven others from the First, Third, and Fourth Districts, and certified to the Florida Supreme Court whether *J.P.* replaced Florida’s standing standard with the federal standard. Until that question is resolved, the framework applied to zoning standing may differ by district. The opinion remains subject to revision before official publication.

Sources

1. *Talbot, LLC v. City of Tampa*, No. 2D2025-1729 (Fla. 2d DCA Sept. 25, 2026)

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