



CITY OF DORAL

NOTICE OF PUBLIC HEARING

All residents, property owners and other interested parties are hereby notified of a **Council Zoning Hearing** meeting on **Wednesday, September 25, 2019, beginning at 6:00 PM**, to consider the following amendment to the Official Zoning Map of the City of Doral. The City Council will consider this item for **SECOND READING**. This meeting will be held at the **City of Doral, Government Center, Council Chambers located at 8401 NW 53rd Terrace, Doral, Florida, 33166**.

The City of Doral proposes to adopt the following Ordinance:

ORDINANCE No. 2019-27

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING/DENYING AN AMENDMENT TO THE OFFICIAL ZONING MAP OF THE CITY OF DORAL, FROM INDUSTRIAL COMMERCIAL (IC) DISTRICT TO DOWNTOWN MIXED USE (DMU) DISTRICT FOR A ±1.95 ACRE PARCEL LOCATED AT 8484 NW 36 STREET, DORAL, FLORIDA; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

HEARING NO.: 19-09-DOR-05

APPLICANT: Doral Court Plaza, LLC

PROJECT NAME: Doral Court Plaza

PROJECT OWNERS: Doral Court Plaza, LLC

LOCATION: 8484 NW 36 Street

FOLIO NUMBER: 35-3027-001-0241

SIZE OF PROPERTY: ±1.95 acres

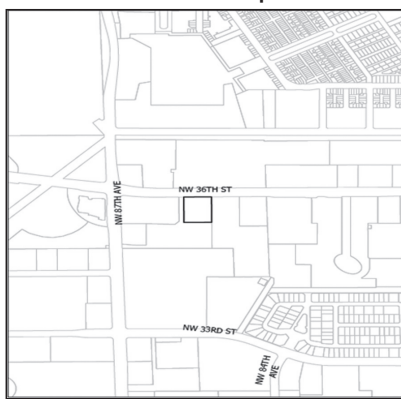
PRESENT FUTURE LAND USE MAP CATEGORY: Office and Residential (OR)

PRESENT ZONING: Industrial Commercial (IC)

REQUEST: Doral Court Plaza, LLC (the "Applicant") is requesting the rezoning of the property from Industrial Commercial (IC) District to Downtown Mixed Use (DMU) District.

LEGAL DESCRIPTION: Parcel "B": A portion of the West 847.72 feet of Tracts 29 and 30, of Florida Fruit Land company's subdivision no. 1, in Section 27, Township 53 South, Range 40 East, as recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows: Commence at the Northwest corner of said Tract 30; thence North 89°58'53" East along the North line of said Tract 30 for a distance of 609.88 feet; thence South 00°21'28" East for a distance of 55.00 feet to a point lying on the South right of way line of N.W. 36th Street and the Point of Beginning of the herein described parcel of land; thence North 89°58'15" East along said right of way for a distance of 239.71 feet; thence South 01°50'30" East for a distance of 297.24 feet; thence South 89°58'15" West for a distance of 247.41 feet; thence North 00°21'28" West for a distance of 297.14 feet to the Point of Beginning. Containing 72,365 square feet or 1.661 acres more or less, together with cester parcel: a portion of the west 847.72 feet of tracts 29 and 30, Florida Fruit Lands company's subdivision no. 1, in section 27, township 53 South, Range 40 East, according to the plat thereof, as recorded in Plat Book 2, at Page 17, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows: Commence at the Northwest corner of said Tract 30; then North 89°58'53" East along the North line of said Tract 30 for a distance of 609.88 feet; thence South 00°21'28" East for a distance of 55.00 feet to a point lying on the South right of way line of N.W. 36th Street (Doral Boulevard) and the Point of Beginning of the herein described parcel of land; thence continue South 00°21'28" East along the West line of the lands described in Partial Release of Unities of Title recorded in Official Records Book 22183, Page 4630, of the Public Records of Miami-Dade County, Florida, for a distance of 297.14 feet; thence South 89°58'15" West, along the Westerly prolongation of the South line of the lands described in said Partial Release of Unities of Title, for a distance of 42.00 feet; thence North 00°21'28" West for a distance of 297.15 feet; thence North 89°58'53" East, along the South right of way line of N.W. 36th Street (Doral Boulevard), for a distance of 42.00 feet to the Point of Beginning. Containing 12,480 square feet or 0.29 acres more or less. easement estate: Together with a nonexclusive easement for access, parking and utilities more particularly described in the Easement Agreement dated March 29, 2004 by and between ACP/Doral Court, LLC, a Delaware limited liability company and Doral Court Plaza, LLC, a Florida limited liability company recorded April 1, 2004, in Official Records Book 22171, Page 4144, as amended by Relocation of Parking Easement Area Pursuant to Easement Agreement recorded October 20, 2016 in Official Records Book 30276, Page 1981 of the public records of Miami-Dade County, Florida.

Location Map



Information relating the subject application is on file and may be examined in the City of Doral, Planning and Zoning Department Located at **8401 NW 53rd Terrace, Doral, FL. 33166**. All persons are invited to appear at this meeting or be represented by an agent, or to express their views in writing addressed to the City Clerk, **8401 NW 53rd Terrace, Doral, FL. 33166**. Maps and other data pertaining to these applications are available for public inspection during normal business hours in City Hall. Any persons wishing to speak at a public hearing should register with the City Clerk prior to that item being heard. Inquiries regarding the item may be directed to the Planning and Zoning Department at 305-59-DORAL.

Pursuant to Section 286.0105, Florida Statutes If a person decides to appeal any decisions made by the City Council with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. In accordance with the Americans with Disabilities Act, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Planning and Zoning Department at 305-59-DORAL no later than three (3) business days prior to the proceeding.

NOTE: If you are not able to communicate, or are not comfortable expressing yourself, in the English language, it is your responsibility to bring with you an English-speaking interpreter when conducting business at the City of Doral during the zoning application process up to, and including, appearance at a hearing. This person may be a friend, relative or someone else. A minor cannot serve as a valid interpreter. The City of Doral DOES NOT provide interpretation services during the zoning application process or during any quasi-judicial proceeding.

NOTA: Si usted no está en capacidad de comunicarse, o no se siente cómodo al expresarse en inglés, es de su responsabilidad traer un intérprete del idioma inglés cuando trate asuntos públicos o de negocios con la Ciudad de Doral durante el proceso de solicitudes de zonificación, incluyendo su comparecencia a una audiencia. Esta persona puede ser un amigo, familiar o alguien que le haga la traducción durante su comparecencia a la audiencia. Un menor de edad no puede ser intérprete. La Ciudad de Doral NO suministra servicio de traducción durante ningún procedimiento durante el proceso de solicitudes de zonificación.

Connie Diaz, MMC

City Clerk

City of Doral

9/11

19-27/0000424566M



APPELLATE LAW

11th Cir.: Receipt of Single Unsolicited Text Insufficient for Standing Purposes

Commentary by
Thomas C. Blatchley



Blatchley

On Aug. 28, the U.S. Court of Appeals for the Eleventh Circuit in *Salcedo v. Hanna*, (D.C. Dkt. No. 0:16-cv-62480-DPG; Appeal No. 17-14077) held that receipt of a single unsolicited text message, sent in violation of the Telephone Consumer Protection Act, is not a concrete injury to establish standing to sue in federal court. The decision is a decisive victory for TCPA call/text defendants in the Eleventh Circuit as it now requires TCPA plaintiffs in that jurisdiction to allege more than the generalized nuisance, trespass, invasion of privacy, etc. harms typically set forth in TCPA complaints. While it now creates a circuit split on Article III standing, thus setting the stage for a re-review of *Spokeo v. Robins*, the decision has broader implications for TCPA class certification purposes.

BOARD OF CONTRIBUTORS

FACTUAL OVERVIEW

On Aug. 12, 2016, John Salcedo, a former client of Florida attorney Alex Hanna and his law firm (collectively, Hanna), received a multimedia text message from Hanna offering a 10% discount on his services. Salcedo filed a lawsuit in district court (S.D. Fla.) as the representative of a putative class of former Hanna clients who received unsolicited text messages from Hanna in the past four years, alleging violations of the TCPA. He sought, among other relief, statutory damages of \$500/text and treble damages of \$1,500/text sent willfully or knowingly.

Hanna moved to dismiss the complaint for lack of standing, arguing in the alternative that it should be dismissed as to Hanna for failure to state a claim against him and that certain parts of the complaint should be stricken. The district court disagreed, finding in relevant part that Salcedo had standing based on an unreported district decision. The district court allowed Hanna to pursue an interlocutory appeal and stayed the proceedings. The appeal to the Eleventh Circuit followed.

ANALYSIS

Skipping ahead of the boring TCPA primer/background, the circuit court found, citing *Spokeo*, that when the concreteness of an alleged injury is difficult to recognize, it must look to the "history and the judgment of Congress" for guidance. Significantly, it found that an act of Congress that creates a statutory right and a private right of action does not automatically create standing; Article III standing requires a concrete injury even in the context of a statutory violation.

Viewing the complaint allegations through the lens of its precedent, history and judgment of Congress, and evaluating the harm qualitatively and not quantitatively, the Eleventh Circuit held that Salcedo did not suffer a concrete injury and thus lacked standing. The circuit court found that Salcedo's allegations of harm from receipt of a single text message (e.g., wasted time answering or addressing the message, rendering Salcedo and his phone unavailable, invasion of privacy and right to enjoy the full utility of his phone) were qualitatively different

from those in its precedent that have been successful in establishing standing to sue over a single violation of the TCPA. On the question of intangible harms, the circuit court rejected the notion that a fax and text are qualitatively different concerning wasted time and device usage. Regarding unavailability, the circuit court found that Salcedo alleged no particular loss of opportunity to receive other texts.

The circuit court found that the history and judgment of Congress does not support finding concrete injury in Salcedo's allegations. Salcedo did not allege anything like enjoying dinner at home with his family and having domestic peace shattered by the ringing of the telephone. Salcedo did not allege that his cellphone was searched, dispossessed or seized for any length of time.

The circuit determined that Salcedo's allegations of a brief, inconsequential annoyance were categorically distinct from those kinds of real but intangible harms. Thus, the circuit court found that the chirp, buzz or blink of a cellphone receiving a single text is more akin to walking down a busy sidewalk and having a flyer briefly waived in one's face. While perhaps annoying, it is not the basis to invoke the jurisdiction of a federal court. For these reasons, the Eleventh Circuit held that Salcedo's allegations did not state a concrete harm that met the injury-in-fact requirement of Article III for purposes of standing.

IMPLICATIONS ON FUTURE TCPA LITIGATION

So what does this mean for TCPA litigation going forward? Certainly TCPA plaintiffs counsel will argue that the *Salcedo* decision does not alter the landscape, they will just have to be more precise and allege more concerning harms suffered by their clients. Whether that will save the day is unknown and will certainly spur much more litigation practice in the TCPA world. From the perspective of TCPA defense counsel, *Salcedo* is a favorable decision if for no other reason than it requires enhanced pleading by plaintiffs concerning their claimed "concrete" injury.

More significantly, however, are the broader implications on class certification. First, certification will require a painstaking and time-consuming individualized inquiry to determine each member's concrete injury, which will inevitably be different for each putative class member. Every putative class member will have to demonstrate a discrete concrete harm caused by the receipt of an unsolicited text message or call. In other words, each putative class member will necessarily have to be analyzed, one-by-one, to delineate his/her respective injury for Article III standing purposes.

The *Salcedo* decision just might set the stage for the U.S. Supreme Court to revisit *Spokeo v. Robins* given the circuit split on Article III standing. Stay tuned, the show has just begun.

Thomas C. Blatchley is a partner in Gordon Rees Scully Mansukhani's Hartford office. He represents a variety of clients in complex litigation in federal and state courts. His practice focuses on litigation matters concerning insurance defense and coverage, business/commercial disputes, employment practices liability, professional liability, products liability, consumer defense, and environmental and land use.