

Real Property Update: Week Ending February 15, 2019

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- **Substantive Due Process:** land use restriction was executive (not legislative) action, and could not give rise to substantive due process claim since property rights are not a "fundamental right" under the Constitution - [Hillcrest Property, LLP v. Pasco Cnty.](#), No. 17-14789 (11th Cir. Feb. 13, 2019)
- **Foreclosure / Standing:** plaintiff that filed original note endorsed in blank identical to copy attached to complaint proved standing to foreclose mortgage, despite testimony from borrower's expert that the note was not part of mortgage pool - [Deutsche Bank Nat'l Trust Co., as Trustee v. Viteri](#), Nos. 4D17-3689, 4D18-388 (Fla. 4th DCA Feb. 13, 2019) (reversed and remanded)
- **Foreclosure / Receiver:** "the Barton doctrine" and judicial immunity supported dismissal of plaintiff's lawsuit against court-appointed receiver where pleading did not sufficiently allege that receiver's actions were outside the scope of authority granted by the court - [Asset Recovery Group, LLC v Wright](#), No. 3D18-2351 (Fla. 3d DCA Feb. 13, 2019) (remanded with instruction)

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