STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

FRIENDS OF NASSAU COUNTY, INC.,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case Nos. 96-3826
	)	96-3827
FISHER DEVELOPMENT COMPANY,	)	96-3828
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, and NASSAU COUNTY,	)	
	)	
Respondents.	)	
	)	

FINAL ORDER

Pursuant to notice, a formal hearing was held in this case on April 29, 1997, in Jacksonville, Florida, before the Division of Administrative Hearings, by its designated Administrative Law Judge, Diane Cleavinger.

APPEARANCES

For Petitioner: David A. Theriaque, Esquire
909 East Park Avenue
Tallahassee, Florida 32301

For Respondent, Fisher Development Company:

Marcia Penman Parker, Esquire
Rogers, Towers, Bailey, Jones and Gay
1301 Riverplace Boulevard, Suite 1500
Jacksonville, Florida 32207

For Respondent, Nassau County:

Michael S. Mullin, Esquire
Nassau County
26 South 5th Street
Fernandina Beach, Florida 32034

For Respondent, St. Johns River Water Management District:

Nancy Barnard, Esquire
St. Johns River Water Management District
Post Office Box 1429
Palatka, Florida 32078-1429

STATEMENT OF THE ISSUE

The issue in this proceeding is whether, pursuant to Sections 120.57(1)(b)5 and 120.59(6), Florida Statutes (1995)[1] Respondents Fisher Development Company (Fisher) and Nassau County (County) are entitled to attorneys fees and costs in these proceedings.

PRELIMINARY STATEMENT

On August 5, 1996, Petitioner, Friends of Nassau County, Inc., filed three Petitions for Administrative Hearing. Each petition raised the issue of whether a permit should be issued by the St. Johns River Water Management District (District) for three components of a related project. Specifically, the permits at issue were: (i) an Environmental Resource Permit for improvements to U.S. Highway A1A (SJRWMD No. 96-1693); (ii) A Management and Storage of Surface Waters permit for the Amelia Island Outlet Center (SJRWMD No. 96-1692); and (iii) A Wetlands Resource (dredge and fill) permit; SJRWMD No. 96-1691.

Petitioner claimed standing in each of the three petitions pursuant to Subsection 403.412(5), Florida Statutes, as a

citizen of the State of Florida upon the filing of a verified petition. The verification was signed by Ms. Sherry Bevis as president of Friends of Nassau County, Inc.

The attorneys representing Petitioner were David A. Theriaque and Charles E. Commander.

The cases were consolidated. The final hearing on the Petitions was noticed for November 12, 1996.

During the course of the discovery phase of these proceedings, on September 30, 1996, Respondents filed a Joint Motion to Dismiss the Petitions with Prejudice and for Sanctions in each of the cases. Two days later, on October 2, 1996, Petitioner filed a Notice of Voluntary Dismissal in one of the proceedings. The file was closed and transmitted to the District on October 8, 1996. Petitioner filed an Amended Notice of Voluntary Dismissal, clarifying that Petitioner sought to dismiss all three petitions. The remaining files were closed, and those cases were transmitted to the District.

On November 14, 1996, the District entered an Order on Remand, directing that an order on the Joint Motion to Dismiss the Petition with Prejudice and for Sanctions be entered. To that end, an evidentiary hearing was held on April 29, 1997. At the hearing, Respondents called five witnesses: Christine Wentzel, Sherry R. Bevis, David Richardson, David Marschka, and William G. Reddinger. Respondent Fisher Development offered 17

exhibits; Respondent Nassau County, offered one exhibit into evidence. Petitioner called one witness, John Gerard "Jerry" Cordy, and offered one exhibit into evidence.

After the hearing, Petitioner and Respondents filed Proposed Recommended Orders on June 9, 1997.

FINDINGS OF FACT

1. On or about July 17, 1997, the District mailed notices of its intent to grant an Environmental Resource Permit, a Management and Storage of Surface Waters Permit and a Wetlands Resource Permit. The three permits were scheduled to be granted on August 12, 1996. On August 5, 1996, three petitions protesting the issuance of the three permits were filed by Friends of Nassau County, Inc. As a result of these proceedings, the issuance of the permits was stayed.

2. Ms. Sherry Bevis is the sole officer and director of Petitioner. Charles Commander, Esquire, initiated the contact with Ms. Bevis, calling her on the date the various documents were signed and filed, to ask her to come to his office to sign the corporate and legal papers. The meeting to incorporate Petitioner's organization was held in the office of Charles Commander on August 5 or 6, at which time Ms. Bevis also signed the petitions which initiated each of these three proceedings. Ms. Bevis signed the petitions at Mr. Commander's request. She did not read the petitions prior to signing them

and did not know anything about the project at the time she signed the verified petitions in opposition to the project. Similarly, she did not know whether the petitions were true or untrue and trusted Mr. Commander's judgment in this matter.

3. Even though Ms. Bevis was and is the only officer and director of Petitioner's corporation, she did not know of any corporate meetings of the Friends of Nassau County, Inc., that have been held and has never attended a meeting of the organization. She does not know if any officers or directors other than herself have been appointed. She neither had nor has any control or knowledge of the finances of the corporation or if the corporation has a bank account. Additionally, Ms. Bevis did not hire any of the attorneys involved in these proceedings, nor does she know who hired them or who paid them.

4. In the verified petitions which initiated the proceedings, Ms. Bevis stated that, as Petitioner, she had received notice of the District's proposed action by certified mail on July 17, 1996. At the time she filed the verified petitions she knew that statement to be false, yet she signed the verified petitions anyway on the advice of Mr. Commander and Mr. Theriaque. Ms. Bevis had no involvement in the case other than as directed by Mr. Commander and Mr. Theriaque.

5. There is no question that the corporation is a sham corporation created solely for the purpose of bringing this litigation on behalf of a still-unknown party or parties.

6. Six or eight months prior to July 1996, Mr. Commander hired Mr. Jerry Cordy, an environmental consultant, to investigate whether the proposed Amelia Island Outlet Mall site was suitable for such a project. Mr. Theriaque hired Mr. Cordy in July 1996 to review the permit applications and technical staff reports to see if there were any permit-related problems with the Amelia Island project. Mr. Cordy testified that all of his work and testimony in these proceedings had been on behalf of Mr. Theriaque.

7. Both of these investigations took place before Friends of Nassau County, Inc., had been formed or before the only known member of the corporation, Ms. Bevis, was aware of the project.

8. However, no additional information was submitted in the permit application files after the petitions were filed, or after the review of experts. No modifications were made to the proposed permits after the petitions were filed. All of the information needed to review and approve each permit was contained in the District's files before the District sent out its notice of intent to grant the permits and a map showing the improvements Petitioner desired was in the file.

9. An attorney from Mr. Theriaque's office, Ms. Rebecca O'Hara, reviewed the District permitting files and requested in late June and early July that documents be produced from the District's file. The District provided Ms. O'Hara with its entire file containing all supporting documents so that she could copy whatever portions of the file she desired. Ms. O'Hara, in turn, provided whatever documents she copied to Jerry Cordy, the environmental consultant hired by Mr. Theriaque for engineering and environmental review of these projects. However, neither the consultant nor anyone else could testify as to what Ms. O'Hara looked at, what she copied, or if she obtained all the materials needed for a complete review.

10. Mr. Cordy and an engineer, Mr. Robert Alderman, reviewed the application materials supplied to them by Mr. Theriaque's office and reported their findings to Mr. Theriaque. However, Mr. Cordy only reviewed files provided to him by Mr. Theriaque's office, and he does not know if he and Mr. Alderman were given the complete files to review. Mr. Cordy could not testify as to whether Mr. Alderman had performed any modeling or engineering calculations before rendering his opinion, and it is unknown if the review was sufficient. Given that from the inception these proceedings were based on a sham party, the credibility of Mr. Cordy's opinion is given little weight especially since no changes were made to the permit

application after July prior to this review taking place, and the improvements the experts said should be included were clearly included on the project plan drawings.

11. Mr. Commander works for the law firm of Foley and Lardner. Steve Pajcic is one of the partners at the law firm, Pajcic and Pajcic, where Ms. Bevis has been employed as a bookkeeper since 1979. The Foley and Lardner firm represent the First Coast Center, a competitor to the Amelia Island Outlet Mall. The Pajcic and Pajcic law firm pension plan has a financial interest in the First Coast Center.

12. On July 22, 1996, and on August 6, 1996, Mr. Theriaque, representing an unnamed client, wrote to the State Department of Community Affairs (DCA) stating that the Amelia Island Outlet Mall is a Development of Regional Impact (DRI) which should be required to undergo a DRI review. Mr. Theriaque requested that the DCA require Fisher Development to obtain a DRI binding letter of interpretation as to whether the project was a DRI. The binding letter of interpretation process would have affected the Amelia Island Outlet Mall project through increased costs and delayed time schedules. On January 8, 1997, DCA notified Fisher Development Company, through its attorney, that the proposed mall is not anticipated to have substantial impacts on regional resources or public facilities, and that a DRI binding letter of interpretation would not be required.

Additional attorneys' fees of $8,059 were incurred as a result of the DCA investigation.

13. Mr. Theriaque was hired by someone. However, he was not hired by Ms. Bevis, the president, sole officer, sole director, sole representative, and apparently sole member of Friends of Nassau County, Inc. Nor was Mr. Commander hired by Ms. Bevis. Thus, the true client in these proceedings remains unknown. To this date, Mr. Theriaque has declined to disclose the identity of the real client behind these proceedings.

14. For business purposes, it was important that Fisher Development Company obtain the three permits prior to an industry convention held in October 1996. The October convention is an industry meeting at which potential tenants are informed of proposed outlet mall projects, and those tenants make decisions as to their leasing plans for the coming year. By having the permits at the October convention, Fisher would have been able to dispel statements made by First Coast Center agents that the Amelia Island Outlet Mall was unable to obtain necessary permits. The First Coast Center agents had also told Fisher Development Company's prospective tenants that the Amelia Outlet Mall was a DRI and would require two years to obtain approvals.

15. The delays in obtaining the three permits competitively disadvantaged the Amelia Island Outlet Mall

project. Fisher has spent approximately $650,000 on the Amelia Island Outlet Mall project, but at this time, even though the permits have been issued, Fisher is only evaluating how to proceed on the project. First Coast agents continue to tell Fisher's prospective tenants that the Amelia Island Outlet Mall will be delayed several years in obtaining its permits.

16. At the time the three petitions were filed in August 1996, Fisher advised its attorney that it still wanted to obtain the permits by October 1996. Fisher was concerned about the possible adverse effects from permitting delays and considered those effects in giving its directions to its attorney in how to respond to these proceedings. Fisher incurred attorneys fees of $48,456, and consulting fees of $10,502, in responding to these proceedings. Finally, costs of $2,475 were incurred as a result of these three proceedings.

17. The attorneys' fees and costs incurred by Fisher in responding to these proceedings are reasonable and consistent with the practice of law in Northeast Florida.

18. The attorneys' fees and costs incurred by Nassau County in responding to these proceedings were $2,994.[2] Likewise these fees and costs are reasonable.

19. In addition to filing verified petitions which the purported Petitioner's representative and her attorneys knew to contain false statements, Petitioner's attorneys filed other

motions and engaged in other actions designed to delay ultimate permit issuance. On the day before rescheduled depositions were to take place, September 18, 1996, Petitioner filed motions for protective orders, seeking to have the depositions further delayed. At least 32 times during the deposition of Petitioner's corporate representative, Ms. Bevis, Petitioner's attorney improperly instructed Ms. Bevis to not answer relevant questions, based solely on the grounds of relevance. Respondents subsequently sought and were granted the right to have the questions answered. However, Notices of Voluntary Dismissal were filed before the continued depositions were held.

20. Respondents also sought to conduct discovery in the proceedings through document production requests. During a telephone hearing held on September 23, 1996, Petitioner was ordered to produce the documents no later than October 7, 1996. On September 27, 1996, Petitioner filed a motion to stay all proceedings.

21. On September 30, 1996, Respondents filed motions for dismissal and sanctions, citing the information discovered in Ms. Bevis' deposition, the facts of which are as set forth above.

22. On October 2, 1996, Petitioner filed a Notice of Voluntary Dismissal in the proceedings related to the Management and Storage of Waters Permit.

23. On October 9, 1996, Respondents sought to have Petitioner produce the documents required by prior order. Instead, Petitioner filed notices of voluntary dismissal in the remaining cases on October 11, 1996.[3]

24. Until the notices of voluntary dismissal were filed, all of Petitioner's pleadings and actions were of the type which would delay the proceedings and ultimate issuance of the permit. These are the three verified petitions, motions for protective order in the taking of depositions, motions to stay the proceedings, improper instructions to a deposed witness to not answer relevant questions based solely upon the grounds of relevance, and refusal to produce ordered documents.

CONCLUSIONS OF LAW

25. The Division of Administrative Hearings has jurisdiction over the subject matter of and the parties to this action pursuant to Section 120.57(1), Florida Statutes.

26. In a proceeding conducted pursuant to Subsection 120.57(1), Florida Statutes, a prevailing party is entitled to recover attorneys fees and costs from a non-prevailing adverse party where the Administrative Law Judge determines that the non-prevailing adverse party participated in the proceeding for an "improper purpose." Subsections 120.59(6)(a)-(b), Florida Statutes (1995).

27. "Improper Purpose" is defined to mean:

> Participation in a proceeding pursuant to § 120.57(1) primarily to harass or to cause unnecessary delay or for frivolous purpose or to needlessly increase the cost of licensing or securing the approval of an activity.

Section 120.59(6)(e)1, Florida Statutes (1995).

28. "Non-prevailing adverse party" is defined to mean:

> A party that has failed to have substantially changed the outcome of the proposed or final agency action which is the subject of a proceeding. In the event that a proceeding results in any substantial modification or condition intended to resolve the matters raised in a party's petition, it shall be determined that the party having raised the issue addressed is not a "nonprevailing adverse party."

Section 120.57(6)(e)3, Florida Statutes (1995).

29. It is un-controverted that Petitioner failed to substantially modify or condition the permits at issue in these three proceedings. Therefore, Petitioner is a "non-prevailing adverse party" in each of the three proceedings. See Department of Transp. V. J.W.C., 396 So. 2d 778, 789 (Fla. 1st DCA 1991).

30. As the parties asserting the affirmative of a position, the burden of proof that Petitioner participated in the three proceedings for an improper purpose falls upon Respondents. Department of Transp. V. J.W.C., Inc., 396 So. 2d 778, 786-87 (Fla. 1st DCA 1981); Balino v. Department of Health and Rehabilitative Servs., 348 So. 2d 349, 350 (Fla. 1st DCA 1977). For purposes of Subsection 120.59(6), Florida Statutes,

"improper purpose" requires a finding that the Petitioner primarily participated in the proceeding: (i) to harass; (ii) cause unnecessary delay; (iii) for frivolous purpose; or (iv) needlessly increase the cost of licensing or securing the approval of an activity. It is un-controverted that the effect of the petitions and the subsequent proceedings was to delay issuance of the permits and to threaten the viability of the projects. The delay was unnecessary in that no environmental or other public benefit was gained as a result of the proceedings. No changes were made in the project design or the permit conditions. Respondent Fisher Development Company suffered substantial financial expense responding to the petitions and in proceeding to undertake discovery as quickly as possible. Respondent Nassau County likewise suffered unnecessary expense in responding to the petitions.

31. In determining whether an "improper purpose" has been present, it is appropriate to consider the circumstantial evidence at hand. Procacci Commercial Realty, Inc. v. Department of Health and Rehabilitative Servs., 690 So. 2d 603, n. 9 (Fla. 1st DCA 1997) (citing Pelliter v. Zweifel, 921 F.2d 1465, 1515 (11th Cir. 1991)). Here, attorneys representing an unknown client drafted three petitions objecting to environmental permits for a commercial project as well as documents forming a sham corporation. One of those attorneys,

who also represents a competitor of the commercial project, then asked someone to serve as the sole officer (and apparently sole member) of that sham corporation. It happens also that the sole officer is employed by one of the competitor's investors. The employee signed the petitions and corporate documents with no knowledge of the facts surrounding the petitioner. Indeed, it was demonstrated that at least one fact contained in the petitions were false at the time the petitions were signed. The petitions and subsequent proceedings served to delay issuance of the permits sufficiently to allow the competitor to gain a competitive advantage. All of this is un-controverted evidence put on by Respondent's at hearing. Without question the Petitioner participated in the underlying proceedings for an improper purpose in violation of Subsection 120.59(6), Florida Statutes (1995).

32. The burden then shifts to Petitioner to demonstrate by evidence of equal or greater weight that it did not participate in the proceedings for an improper purpose. J.W.C., 396 So. 2d at 789. The Petitioner is required to present evidence of equivalent or greater quality and prove the truth of the facts alleged. See J.W.C., Inc., 396 So. 2d at 789. The only evidence presented by Petitioner at hearing related to whether "reasonable inquiry" into the allegations had been made. This evidence is not credible and does not refute the evidence of

improper purpose. Moreover, the evidence does not demonstrate that the inquiry made was itself reasonable and not a sham as was the corporate party in this case.

33. Therefore, for purposes of Subsection 120.59(6), Florida Statutes, it is concluded that Petitioner participated in the proceedings for an improper purpose, and that Respondents Fisher Development Company and Nassau County are entitled to recover costs and reasonable attorneys fees from Petitioner, Friends of Nassau County, Inc.

34. Respondents have also requested that sanctions be imposed against Petitioner and Petitioner's attorneys pursuant to Subparagraph 120.57(1)(b)5, Florida Statutes, which states:

> All pleadings, motions, or other papers filed in the proceeding must be signed by a party, the party's attorney, or the party's qualified representative. The signature of a party, a party's attorney, or a party's qualified representative constitutes a certificate that he or she has read the pleading, motion, or other paper and that, to the best of his or her knowledge, information and belief formed after reasonable inquiry, it is not interposed for any improper purpose, such as to harass, or cause unnecessary delay or for frivolous litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the hearing officer, upon motion or the officer's own initiative, shall impose upon the person who signed it, a represented party or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other

> paper, including a reasonable attorney's fees.

Section 120.57(1)(b)5, Florida Statutes (1995).

35. A frivolous purpose "is one which has little significance or importance in the context of the goal of administrative proceedings." Mercedes Lighting and Elec. Supply, Inc. v. State, Department of General Servs., 560 So. 2d 272, 278 (Fla. 1st DCA 1990).

36. If a reasonably clear legal justification can be shown for the filing of the paper in question, improper purpose cannot be found, and sanctions are not appropriate. Id. In the absence of direct evidence of the party's and the counsel's state of mind, the court will impose an objective standard and determine whether "an ordinary person standing in the party's or counsel's shoes would have prosecuted the claim." Procacci Commercial Realty, Inc. v. Department of Health and Rehabilitative Servs., 690 So. 2d 603, 608, n. 9 (citing Pelliter v. Zweifel, 921 F.2d 1465, 1515 (11th Cir. 1991).

37. In the instant case, no reasonably clear legal justification has been shown for the filing of the three petitions which initiated these proceedings. Petitioner's lone representative had no knowledge of the basis for the petitions and indeed signed the petitions knowing at least one of the statements in the petitions was false. In so signing, she

relied entirely upon her attorneys. It is unknown who the attorneys truly represent. However, it is known that one of the attorney's clients, First Coast Center, gained a competitive advantage by delaying the issuance of the permits for the Amelia Island Outlet Mall and the road improvements. It is also known that the other attorney on behalf of an "unnamed client" wrote adverse letters regarding the Amelia Island Outlet Mall to DCA, further delaying the mall's development. Petitioner's lone representative at no time acted in the capacity of a client, and indeed Petitioner's organization was not formed at the time the DCA investigation was initiated. Moreover, the evidence did not demonstrate reasonable inquiry by the attorneys or facts which would justify a reasonable legal or factual basis for these proceedings.

38. The actions of the attorneys demonstrate a purpose that is improper in the context of the goal of administrative proceedings. Administrative proceedings are designed to allow a third party who has standing either as a substantially affected party or as a citizen pursuant to the provision of Section 403.412, Florida Statutes, to influence an agency's actions and require that a permit comply with all permitting criteria. By setting up and representing a sham client, the attorneys have prevented this tribunal from determining whether the hidden client has any legal standing. The entire fabric and fairness

of an administrative proceeding is undermined by such attorney activities.

39. Through such actions, the agency involved is prevented from determining the true scope of the complaints brought to issue by the Petitioner, and the permit applicants are prevented from discovering what design or operation modifications could be made to make the project acceptable. If the true parties to the proceedings are unknown, true discovery cannot be conducted, and the possibilities for settlement on the issues are vitiated.

40. For those reasons, sanctions are imposed pursuant to Subparagraph 120.57(1)(b)5, Florida Statutes (195), jointly and severally against Petitioner, Attorney David A. Theriaque, Attorney Charles E. Commander and Sherry Bevis. These sanctions shall be imposed in the amount of the attorneys' fees and costs incurred by Fisher and the County for responding to the three petitions, and for purposes of assessing fees and costs for sanctions through the date of the evidentiary hearing on the Motion. Fisher's fees and costs are $50,931.93,[4] plus additional fees and costs associated with conducting the evidentiary hearing and filing post-hearing pleadings. Nassau County's fees and costs are $2,994, plus additional fees and costs associated with conducting the evidentiary hearing.

ORDER

Based upon the findings of fact and conclusions of law, it is,

ORDERED:

That Petitioner, Friends of Nassau County, Inc., Attorney David A. Theriaque, Attorney Charles E. Commander, and Sherry Bevis be jointly and severally ordered to pay Respondents Fisher Development Company and Nassau County, Inc.'s attorneys fees and costs incurred as a result of these three proceedings. Petitioner is ordered to pay pursuant to the provisions of

Sections 120.57(1)(b)5, and 120.59(6), Florida Statutes (1995), and Attorneys Theriaque, Attorney Commander, and Sherry Bevis are ordered to pay pursuant to the provisions of Section 120.57(1)(b)5, Florida Statutes.

DONE AND ORDERED this 13th day of October, 1998, in Tallahassee, Leon County, Florida.

DIANE CLEAVINGER
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847

Filed with the Clerk of the
Division of Administrative Hearings
this 13th day of October, 1998.

ENDNOTES

[1]/ Section 120.57(1)(b)5, Florida Statutes (1995), has been revised by Section 120.569(1)(c), Florida Statutes (1996). Section 120.59(6), Florida Statutes (1995) was revised in Section 120.595(1), Florida Statutes (1996). See Procacci Commercial Realty, Inc. v. Dept. of Health and Rehabilitative Services, 690 So. 2d 603, 605-608 (Fla. 1st DCA 1997). The revisions became effective October 1, 1996, after these proceedings were initiated and are not applied retroactively. See Young v. Altenhaus, 472 So. 2d 1152 (Fla. 1985); Leapai v. Milton, 595 So. 2d 12, 15 (Fla. 1992); Life Care Centers v. Sawgrass Care Center, 683 So. 2d 609 (Fla. 1st DCA 1996).

[2]/ County Exhibit 1 showed an entry of September 23, 1996 of 0.5 hours at $150 per hour; Nassau County agreed at hearing that the rate should have been $125 per hour. Therefore, from the total of $3,007.50, the difference of $13.50 has been subtracted.

[3]/ As late as March 17, 1997, six weeks before the evidentiary hearing on these matters, Fisher sought to have the documents produced, but Petitioner declined.

[4]/ Attorney fees for the DRI process are not awarded since they were not related to the underlying proceeding.

COPIES FURNISHED:

David A. Theriaque, Esquire
909 East Park Avenue
Tallahassee, Florida 32301

Marcia Penman Parker, Esquire
Rogers, Towers, Bailey
Jones and Gay
Suite 1500
1301 Riverplace Boulevard
Jacksonville, Florida 32207

Michael S. Mullin, Esquire
Nassau County
26 South 5th Street
Fernandina Beach, Florida 32034

Nancy Barnard, Esquire
St. Johns River Water
Management District
Post Office Box 1429
Palatka, Flroida 32078-1429

Henry Dean, Executive Director
St. Johns River Water
Management District
Post Office Box 1429
Palatka, Florida 32178-1429

NOTICE OF RIGHT TO APPEAL

A party who is adversely affected by this final order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of the notice of appeal with the Agency Clerk of the Division of Administrative Hearings and a second copy,

accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The notice of appeal must be filed within 30 days of rendition of the order to be reviewed.