STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

JANET BOLLUM, GLENN BREWER, and MARY BREWER,	)	
Petitioners,	)	
vs.	)	Case No. 98-2331GM
DEPARTMENT OF COMMUNITY AFFAIRS and CITY OF DELAND,	)	
Respondents,	)	
and	)	
WAL-MART STORES, EAST, INC., and MARCIA BERMAN, TRUSTEE,	)	
Intervenors.	)	

RECOMMENDED ORDER

Pursuant to notice, a formal hearing was held in this case on August 23, 2000, in Deland, Florida, before Donald R. Alexander, Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioners: C. Allen Watts, Esquire
Cobb, Cole & Bell
Post Office Box 2491
Daytona Beach, Florida 32115-2491

For Respondent: (DCA) Shaw P. Stiller, Esquire
Department of Community Affairs
2555 Shumard Oak Boulevard, Suite 315
Tallahassee, Florida 32399-2100

For Respondent: (City)
Mark A. Zimmerman, Esquire
James, Zimmerman, Paul & Huddleston
Post Office Drawer 2087
Deland, Florida 32721-2087

For Intervenor: (Berman)
David L. Powell, Esquire
Hopping, Green, Sams & Smith, P.A.
Post Office Box 6526
Tallahassee, Florida 32314-6526

For Intervenor: (Wal-Mart)
F. Alex Ford, Jr., Esquire
Landis, Graham, French, Husfeld, Sherman & Ford, P.A.
Post Office Box 48
Deland, Florida 32721-0048

STATEMENT OF THE ISSUE

The issue is whether that portion of Plan Amendment 98-1ER known as LU-97-02 is in compliance.

PRELIMINARY STATEMENT

This matter began on March 11, 1998, when Respondent, City of Deland, adopted Plan Amendment 98-1ER by Ordinance No. 96-17. Among other things, the ordinance assigned a Highway Commercial land use classification to approximately 40 acres of land owned by Intervenor, Marcia Berman, Trustee. The property is under contract to be sold to Intervenor, Wal-Mart Stores East, Inc., who plans to construct a store on a part of the property.

On May 7, 1998, Respondent, Department of Community Affairs, published its Notice of Intent to find the plan amendment not in compliance on various grounds. The agency then filed a Petition in support of its Notice, and the matter was forwarded to the Division of Administrative Hearings on May 15, 1998, with a

request that an Administrative Law Judge be assigned to conduct a hearing.

On May 28, 1998, Petitioners, Janet Bollum, Glenn Brewer, and Mary Brewer, and 82 other persons, filed a Petition for Administrative Hearing and Petition to Intervene in opposition to the plan amendment. The Petition to Intervene was later granted by Order dated December 18, 1998.

By Notice of Hearing dated June 2, 1998, a final hearing was scheduled on September 16-18, 1998, in Deland, Florida. At the request of the parties, the case was temporarily abated pending efforts to reach a settlement. Thereafter, all parties except Petitioners executed a Stipulated Settlement Agreement in February and March 2000, which resolved all issues originally raised by the agency.

An Amended Notice of Intent to find the amendment in compliance was then published on April 3, 2000. By Order dated April 28, 2000, the parties were realigned consistent with their new positions as required by Section 163.3184(16)(f)1., Florida Statutes (1999). The matter was also rescheduled for hearing on August 23 and 24, 2000, in Deland, Florida.

On July 19, 2000, Petitioners filed their Motion for Leave to Amend Petition. The motion was granted on August 7, 2000, and all Petitioners except Bollum and the Brewers were dismissed as parties in this action. In addition, the factual issues to be tried were narrowed to two.

At the final hearing, Petitioners presented the testimony of Gary Schindler, former planning director for the City of Deland; Janet Bollum; Gary Huttman, a transportation consultant; Richard Holmes, former planning director for the City of Deland; Jim McCroskey, director of community development for the City of Deland; and Thomas L. Brooks, a planner with Volusia County and accepted as an expert in planning demographics and population and employment projections. Also, they offered Petitioners' Exhibits 1, 3-5, and 7, which were received in evidence. The Department of Community Affairs presented the testimony of Charles Gauthier, chief of the bureau of local planning and accepted as an expert in comprehensive planning and compliance review. Also, it offered Department Exhibit 1, which was received in evidence. The City of Deland offered City Exhibits 1-4, which were received in evidence. Exhibit 3 is the deposition of Wayne N. Sanborn, former city manager of the City of Deland. Finally, the parties offered Joint Exhibits 1-9, which were received in evidence.

The Transcript of the hearing (two volumes) was filed on September 20, 2000. Proposed Findings of Fact and Conclusions of Law were filed by the parties on October 10, 2000, and they have been considered by the undersigned in the preparation of this Recommended Order.

FINDINGS OF FACT

Based upon all of the evidence, including the stipulation of counsel, the following findings of fact have been determined:

a. Background

1. In this land use dispute, Petitioners, Janet Bollum (Bollum) and Glenn and Mary Brewer (the Brewers), who are property owners within or near the City of Deland, contend that a portion of Plan Amendment 98-1ER adopted by Respondent, City of Deland (City), is not in compliance. The portion of the amendment under challenge, known as Plan Amendment LU-97-02, changes the land use on 39.56 acres of land owned by Intervenor, Marcia Berman, Trustee (Berman), to Highway Commercial. The property is currently under contract to be sold to Intervenor, Wal-Mart Stores East, Inc. (Wal-Mart), who intends to construct a Wal-Mart super store on a part of the site. Respondent, Department of Community Affairs (Department), is the state agency charged with the responsibility of reviewing comprehensive land use plans and amendments.

2. Until 1997, the Berman property was located in the unincorporated area of Volusia County (County). Prior to 1994, it carried an Urban Medium Intensity land use designation. That year, the County redesignated the property as Industrial. In 1997, the City annexed the Berman property and revised its Future Land Use Map the following year to change the land use to Highway Commercial. This change was accomplished through the plan amendment under challenge.

3. On May 1, 1998, the Department issued its Statement of Intent to Find Portions of Plan Amendment Not in Compliance.

More specifically, it found that the new land use designation would "generate traffic which causes the projected operating conditions of roadways to fall below adopted level of service standards and exacerbates projected roadway deficiencies." The Department also found that the amendment was "not supported by or based on, and does not react in an appropriate way to, the best available data and analyses." In making these findings, the Department relied in part upon a traffic study prepared by "TEI" in 1998 which reflected that the City's traffic system did not have sufficient capacity to accommodate the new land use. The Department determination triggered this action.

4. On May 27, 1998, Petitioners, and 82 other property owners, filed a paper styled "Petition for Administrative Hearing and Petition to Intervene" challenging the change of land use on the Berman property in numerous respects. The paper was treated as a petition to intervene and was later granted.

5. After the case was temporarily abated in August 1998 pending efforts to settle the matter, in January 1999, a new traffic study was prepared for the City by Ghyabi, Lassiter & Associates (GLA study), which determined that the existing and planned City transportation network could accommodate the impacts from the development allowed under the amendment. All parties except Petitioners then executed a Stipulated Settlement Agreement in February and March 2000, which resolved all issues originally raised by the Department. Thereafter, the Department

issued an Amended Notice of Intent to find the plan amendment in compliance. As required by Section 163.3184(16)(f), Florida Statutes (1999), the parties were realigned consistent with their respective positions.

6. Through an Amended Petition filed by Petitioners on July 19, 2000, all original Petitioners except Bollum and the Brewers have been dismissed, and the factual issues in this case narrowed to two: (a) whether the recent traffic studies "demonstrate a transportation concurrency failure, and a failure to fall within a lawful transportation concurrency exception under F.S. 163.3180(5)(c) and (d)"; and (b) whether the "plan amendment data and analyses continue a failure to show demand for additional 'highway commercial' land, as originally asserted by the Department's Notice of Intent."

b. Standing of the Parties

7. Bollum owns property, resides within, and owns and operates a business within the City. She also submitted written and oral comments to the City while the amendment was being adopted. The parties have stipulated that she is an affected person and thus has standing to participate.

7. The Brewers own property and reside in an unincorporated area of the County in the immediate vicinity of the proposed plan amendment. They also reside within what is known as the "Greater Deland Area," as defined by Chapter 73-441, Laws of Florida. However, they do not own property, reside within, or own and

operate a business within the corporate limits of the City, and thus they lack standing to participate.

8. The parties have stipulated that Intervenors Berman and Wal-Mart have standing to participate in this proceeding.

c. The Amendment

9. The Berman property lies on the eastern side of U.S. Highway 17 just north of the intersection of U.S. Highways 17 and 92, approximately three miles north of the City's central business district. The land is currently undeveloped.

10. Prior to being annexed by the City, the property was located within the unicorporated area of the County, just north of the City limits. The earliest County land use designation was Urban Medium Intensity, a primarily residential land use classification which also allowed some commercial development, including small neighborhood shopping centers.

11. In 1993, the County began a comprehensive examination of land use and zoning restrictions in the vicinity of the Berman property. In May 1994, it redesignated the Berman property from Urban Medium Intensity to Industrial. This use allowed not only industrial development, but also some commercial development.

12. Before the Berman property was annexed by the City, it was depicted on the City's Urban Reserve Area Map (map). That map established advisory designations for unincorporated County land abutting the City, and was meant to be a guide for City land use decisions when property was annexed. The property was

designated on the map as approximately one-half Commercial and one-half Industrial.

13. In 1997, the Berman property was annexed by the City. Because the City was then required to place a land use designation on the property, on May 16, 1998, it adopted Amendment 98-1ER, which redesignated the property from Volusia County Industrial to City Highway Commercial. The new mixed-use designation allows "a wide range of retail and service and office uses," as well as up to twenty percent residential land uses, including multi-family manufactured housing developments. Thus, the Highway Commercial land use designation is meant to accommodate major shopping centers like the one proposed by Wal-Mart.

d. Transportation issue

14. In their Amended Petition, Petitioners allege that accepting as fact the "most recent traffic studies," those studies still "demonstrate a transportation concurrency failure, and a failure to fall within a lawful transportation concurrency exception under F.S. 163.3180(5)(c) and (d)."

15. The "most recent traffic studies" are the GLA study, and it shows that the existing and planned City transportation network can accommodate the traffic impacts arising from development allowed under the plan amendment.

16. Some of the transportation impacts from the expected development on the Berman property will affect roadways within an

area of the City that was formally designated in May 1992 as a Special Transportation Area (STA) or road segments with specialized level of service (LOS) standards. The STA includes the central business district and certain outlying areas essentially bounded by Minnesota Avenue, Amelia Avenue, the rear property lines of properties along the north side of New York Avenue (State Road 44), South Hill Avenue, Beresford Avenue, Boundary Avenue, and Clara Avenue, which extend to approximately one mile from the Berman property. None of the roadways within the STA are on the Florida Intrastate Highway System.

17. Rule 9J-5.0055(2), Florida Administrative Code, requires that the City adopt LOS standards on roadways within its planning jurisdiction (which are not on the Florida Intrastate Highway System), including the disputed portion of U.S. Highways 17 and 92. The applicable LOS standards and STA provisions are found in Policies 3.1.7 and 3.1.10, respectively, of the Transportation Circulation Element of the plan. They read as follows:

> 3.1.7 For those roadways listed in Policy 3.1.6 [which include U.S. Highways 17 and 92], the City of Deland may permit development to occur until the peak hour traffic volumes exceed a 20% increase over the peak traffic counts published in the FDOT's 1989 Traffic Data Report.
>
> 3.1.10 As a result of FDOT's approval of the STA designation for US 17/92 (Woodland Boulevard), from Beresford Avenue to Michigan Avenue, and SR 44 (New York Avenue), from SR 15A to Hill Avenue, the following maximum LOS and/or traffic volumes shall be permitted.

ROADWAY SEGMENT
US 17/92, from Beresford to Michigan = 22,028
SR 44, from SR 15A to US 17/92 = LOS E
SR 44, from US 17/92 to Hill = LOS E

*The proposed maximum traffic volume is compatible with the maximum LOS for this section of roadway, as stated in Policy 3.1.7.

These two policies have been found to be in compliance and are not subject to challenge in this proceeding.

18. Although the STA is identified as a specific area, the City's Comprehensive Plan anticipates that development from outside of this area will impact the STA. As noted above, however, the undisputed GLA study demonstrates that the plan amendment will not allow development which would cause these adopted LOS standards to be exceeded.

19. The STA was approved in May 1992, or prior to the enactment of Section 163.3180, Florida Statutes (1993), which allows certain exceptions from the otherwise blanket requirement to adopt and enforce a transportation LOS standard for roadways.

20. Two planning tools made available to local governments by Section 163.3180(5), Florida Statutes (1993), are a Transportation Concurrency Exception Area (TCEA) and a Transportation Concurrency Management Area, both of which allow exceptions to transportation concurrency requirements. The practical effect of a TCEA is to allow development to proceed without having to comply with transportation concurrency.

21. Petitioners essentially contend that the STA created by the City for the central business district and certain outlying areas is "the substantial equivalent of a TCEA," and thus it should be treated as one for purposes of this proceeding. They go on to argue that while the City may grant an exception to concurrency requirements for transportation facilities for projects located within a TCEA, those benefits cannot be extended to any other area, including the Berman property. Based on this premise, Petitioners conclude that without the benefit of the TCEA exception, the anticipated traffic from the new development on the Berman property will cause a "continuation of a [LOS] failure on the constrained segments of US 17/92 and on the unconstrained segment from SR44 to Wisconsin Avenue," in violation of the law.

22. Petitioners' contention is based on an erroneous assumption. The evidence shows that the City has never adopted a TCEA. Neither has the STA "transformed" into a TCEA, as Petitioners suggest. Moreover, as noted above, the undisputed GLA study shows rather clearly that the plan amendment will not allow development which would cause the adopted LOS standards to be exceeded.

23. Petitioners further contend that the plan amendment is somehow inconsistent with the transportation exception requirements in Section 163.3180(5)(b) and (c), Florida Statutes (2000). However, these provisions apply to developments "which

pose only special part-time demands on the transportation system[,]" that is, "one that does not have more than 200 scheduled events during the calendar year and does not affect the 100 highest traffic volumes." The evidence shows that the Highway Commercial land use category is not designed for such developments and, in fact, encourages far more intense uses.

e. Is There a Need for Additional Commercial Land?

24. Petitioners next contend that "the plan amendment data and analyses continue a failure to show demand for additional 'highway commercial' land, as originally asserted by the Department's Notice of Intent and not resolved by the Compliance Agreement."

25. In the immediate vicinity of the Berman property, near the intersection of U.S. Highways 17 and 92 north of the City, "there is an emerging trend of 'regional-type' commercial developments." This area is already partially developed with commercial uses, and it has additional areas depicted for future commercial and industrial use. There are no other parcels in the City, especially in this area, of a sufficient size to accommodate this type of regional commercial development.

26. There are numerous ways to project the raw, numerical need for commercial land in the City. The City's Comprehensive Plan, its Evaluation and Appraisal Report, and the GLA study all contain statements regarding projected population and employment, each portraying a slightly different result. In fact,

Petitioners' own expert criticized the numbers used in these documents as being unreliable and suspect.

27. The need calculus basically involves projecting population over a ten-year planning period and then allocating commercial, residential, and other land uses in an amount to match that projection. For the reasons set forth below, this process is imprecise, and it must be tempered by other factors.

28. First, the planner must project population over the ten-year planning timeframe. Any mistake in this projection will skew the numbers. Second, employment ratios used in the calculus can change from year to year, especially in a smaller community. Also, other planning objectives are inherently subject to change year by year.

29. Given this imprecision and changing market demands, it is appropriate for professional planners to overallocate land uses. An excess allocation of twenty-five percent (or an allocation factor of one hundred and twenty-five percent) is recognized by professional planners as being appropriate. The evidence supports a finding that this amount is reasonable under the circumstances present here.

30. There are numerous professionally acceptable ways in which to allocate land uses. The City has not adopted a particular methodology in its Comprehensive Plan.

31. The specifics of the plan amendment and the City's Comprehensive Plan make application of a strict numerical

calculus even more difficult. The prior designation of the property was Industrial, which is not a pure industrial category, but actually allowed up to thirty percent of commercial uses. The amendment here simply changes the land use from Industrial, with some commercial uses allowed, to a mixed-use Highway Commercial designation. As noted earlier, the City's Comprehensive Plan anticipates regional commercial uses in the area of the Berman property. Finally, the parcel is relatively small (less than 40 acres) and is embedded within an urban area.

32. Given the uncertainty of a numerical calculation of commercial need in the City, the size and location of the property, the property's inclusion in an urban area, and the surrounding commercial land uses, the evidence supports a finding that either Industrial or Commercial would be an appropriate land use for the property.

33. The evidence further supports a finding that the need question is not a compliance issue here and does not support a finding that the plan amendment is not in compliance.

CONCLUSIONS OF LAW

34. The Division of Administrative Hearings has jurisdiction over the subject matter and the parties hereto pursuant to Sections 120.569 and 163.3184, Florida Statutes (2000).

35. By stipulation of counsel, all parties except the Brewers have been found to be affected persons within the meaning

of Section 163.3184(1)(a), Florida Statutes (2000), and have standing to participate in this proceeding. The Brewers argue that they reside within the "Greater Deland Area," as that term is defined in Chapter 73-441, Laws of Florida, and thus they also qualify as affected persons. However, Section 163.3184(1)(a), Florida Statutes (2000), specifically requires that in order to qualify as an affected person, one must own property, reside, or own or operate a business "within the boundaries of the local government whose plan is the subject of review." The Brewers do not. Moreover, the special act relied upon by the Brewers simply reserves an area outside of the City "as the logical future extension of the City limits of the City of Deland" and prohibits other municipalities from annexing within this area. While it designates the City as the sole provider of potable water and wastewater disposal within that area, the special act expressly reserves planning jurisdiction over the area to the County until the property is annexed. Therefore, the Brewers are not affected persons.

36. This case first arose under Section 163.3184(10)(a), Florida Statutes (1997), following the Department's Notice of Intent to find portions of the City's plan amendment not in compliance. The original Notice of Intent was later superceded by an Amended Notice of Intent following the execution of a Stipulated Settlement Agreement. Petitioners maintained their

challenge to the plan amendment following the Amended Notice of Intent and thus bear the burden of proof.

37. Where a settlement agreement resolves the issues originally raised by the Department in issuing a notice of intent to find an amendment not in compliance, any challenge is governed by Section 163.3184(9), Florida Statutes (2000). See Section 163.3184(16)(f)2., Florida Statutes (2000). The burden of proof is such a proceeding is "fairly debatable."

38. Petitioners contend, however, that realignment and the change in burden of proof from a preponderance of the evidence to beyond fair debate are not warranted because the City did not adopt a remedial amendment pursuant to a settlement agreement. This contention is based on language in Section 163.3184(16)(f), Florida Statutes (2000), which sets forth procedures to be followed if a local government adopts "compliance agreement amendments."

39. This statute does not establish the requirement that a comprehensive plan amendment proceeding can be settled only upon the adoption of compliance agreement amendments. While such amendments are mentioned, the referenced statute is procedural, not substantive, and does not impose additional requirements on the settlement of a case involving the Department.

40. To read the statute in the manner urged by Petitioners would lead to absurd results, especially in a case such as this one. Existing data and analysis, ultimately proven erroneous,

formed the sole basis for the Department's initial decision to find the amendment not in compliance. A reanalysis of the data demonstrated serious flaws in the original conclusions of the Department, and compelled issuance of an Amended Notice of Intent. This Amended Notice and realignment of the parties followed the process established in Section 163.3184(16)(f), Florida Statutes (2000). It was unnecessary for the parties to craft a new plan amendment to address a problem caused and cured by data and analysis. Petitioners' argument would impose the additional requirement for no benefit to the local government or the comprehensive plan. Accordingly, the prior ruling as to realignment is reaffirmed, and the burden of proof in this matter is "fairly debatable."

41. The fairly debatable test asks whether reasonable minds could differ as to the outcome. The action of the City must be approved "if reasonable persons could differ as to its propriety." B & H Travel Corporation v. Department of Community Affairs, 602 So. 2d 1362, 1365 (Fla. 1st DCA 1992). Thus, Petitioners must show beyond fair debate that the plan amendment is not in compliance. Under this test, an extremely heavy burden is placed upon Petitioners to prove the legitimacy of their claims.

42. "In compliance," as defined in Section 163.3184(1)(b), Florida Statutes (2000), means the plan is consistent with the requirements of Sections 163.3177, 163.3178, and 163.3191,

Florida Statutes (2000), the state comprehensive plan, the regional policy plan, and Chapter 9J-5, Florida Administrative Code.

43. Petitioners raise two issues in their Amended Petition as grounds for finding the plan amendment not in compliance. First, they contend that the most recent traffic studies (the GLA study) "demonstrate a transportation currency failure, and a failure to fall within a lawful transporation concurrency exception under F.S. 163.3180(5)(c) and (d)." Second, they contend that "the plan amendment data and analyses continue a failure to show demand for additional 'highway commercial' land, as originally asserted by the Department's Notice of Intent nd not resolved by the Compliance Agreement."

44. As to the transportation issue, Rule 9J-5.0055(2), Florida Administrative Code, mandates that local governments adopt LOS standards for public facilities (including roadways) and services located within the area for which such local government has authority to issue development orders and development permits. The disputed portion of U.S. Highways 17 and 92 falls within this category.

45. The LOS standards for roadways within the City's jurisdiction are found in policies under Objective 3.1 in the Traffic Circulation Element. The undisputed evidence shows that the transportation impacts expected from the plan amendment can

be accommodated under the adopted LOS standards in the City, including the STA.

46. Contrary to Petitioners' claim, the evidence shows that the City has never adopted a TCEA, and there is no provision in Chapter 163, Florida Statutes, which allows a STA to "transform" into a TCEA. Indeed, for this to occur, a plan amendment would be necessary. Because no such amendment was intended or accomplished by the City, Petitioners' claim is rejected.

47. As to the need issue, the demonstration of "need" is a planning data and analysis requirement under Chapter 163, Florida Statutes. This requirement applies when a local government adopts or amends its comprehensive plan future land use element, and it mandates that the government utilize appropriate and relevant data and analysis for purposes of distributing land uses on the future land use map. Section 163.3177(6)(a) and (10), Florida Statutes (2000); Rule 9J-5.006(2), Florida Administrative Code. The requirement seeks to match the allocation of future land use categories with the projected population in order to ensure sufficient land to accommodate the varying uses of that population. Section 163.3177(6)(a), Florida Statutes (2000).

48. As established in the Findings of Fact, the evidence shows that the need calculus is imprecise and must be tempered by other factors. The more credible evidence supports a need for additional Highway Commercial acreage in the chosen location.

49. In summary, Petitioners have failed to prove beyond fair debate that the amendment is not in compliance as that term is defined in Section 163.3184(1)(b), Florida Statutes (2000). Even if the less stringent preponderance of the evidence standard is used, Petitioners have still failed to show that the amendment is not in compliance.

RECOMMENDATION

Based on the Foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Department of Community Affairs enter a final order determining Plan Amendment 98-1ER adopted by the City of Deland by Ordinance Number 98-07 on March 16, 1998, to be in compliance.

DONE AND ENTERED this 20th day of November, 2000, in Tallahassee, Leon County, Florida.

DONALD R. ALEXANDER
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
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 20th day of November, 2000.

COPIES FURNISHED:

Steven M. Siebert, Secretary
Department of Community Affairs
2555 Shumard Oak Boulevard, Suite 100
Tallahassee, Florida 32399-2100

C. Allen Watts, Esquire
Cobb, Cole & Bell
Post Office Box 2491
Daytona Beach, Florida 32115

Shaw P. Stiller, Esquire
Department of Community Affairs
2555 Shumard Oak Boulevard, Suite 315
Tallahassee, Florida 32399-2100

F. Alex Ford, Jr., Esquire
Landis, Graham, French, Husfeld,
Sherman & Ford, P.A.
Post Office Box 48
Deland, Florida 32721-0048

Mark A. Zimmerman, Esquire
James, Zimmerman, Paul & Huddleston
Post Office Drawer 2087
Deland, Florida 32721-2087

David L. Powell, Esquire
Hopping, Green, Sams & Smith, P.A.
Post Office Box 6526
Tallahassee, Florida 32314

Margaret E. Bowles, Esquire
Margaret E. Bowles, P.A.
205 South Hoover Street
Suite 402
Tampa, Florida 33609

Cari L. Roth, General Counsel
Department of Community Affairs
2555 Shumard Oak Boulevard, Suite 325
Tallahassee, Florida 32399-2100

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days to this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will enter a final order in this case.