

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

JOHN ABBE, et al., JERRY	)	
COLEMAN, and JOHN F. ROONEY,	)	
	)	
Petitioners,	)	
	)	
vs.	)	Case Nos. 99-0666GM
	)	99-0667GM
DEPARTMENT OF COMMUNITY AFFAIRS,	)	99-1081DRI
	)	
Respondent,	)	
	)	
and	)	
	)	
CITY OF KEY WEST and HENRY and	)	
MARTHA DUPONT,	)	
	)	
Intervenors.	)	
_____	)	

SUPPLEMENTAL RECOMMENDED ORDER

A Recommended Order was entered in these cases on August 30, 2000. In the Preliminary Statement of the Recommended Order it was indicated that Coleman Exhibit 32, which had been accepted into evidence at hearing, had not been provided to the undersigned following the hearing. In fact, Coleman Exhibit 32, a copy of the Land Development Regulations adopted by the City of Key West (hereinafter referred to as the "Land Development Regulations"), had been provided. The Land Development Regulations were found by the Department of Community Affairs in a large box containing the exhibits offered at the hearing of these case which had been forwarded to the

Department of Community Affairs with the Recommended Order. By Order of Remand, the Department of Community Affairs remanded these cases to the Division of Administrative Hearings with a request that Coleman Exhibit 32 be examined by the undersigned and, to the extent deemed necessary, that the Recommended Order be modified.

On December 7, 2000, an Order Accepting Order of Remand and Opening Files was entered. In the December 7, 2000 Order, the Order of Remand was accepted and the files of the Division of Administrative Hearings were reopened for proceedings consistent with the Order of Remand. The parties were given to December 29, 2000, to file pleadings addressing the Order of Remand and suggesting any action the undersigned should take in complying with the Order of Remand. The parties were also informed that this Order would be entered.

Responses to the Order of December 7, 2000, were timely filed by the Petitioner, Jerry Coleman, Intervenors, Henry and Martha DuPont, and Respondent, the Department of Community Affairs. Those responses have been fully considered in entering this Order.

Based upon a review of the record of these cases, including the Recommended Order and proposed recommended orders submitted by the parties, and the submittals of the parties on remand, it is concluded that no modification to the Recommended Order is

necessary other than to strike the following sentence found on page 8 of the Recommended Order: "Coleman Exhibit 32 was not provided to the undersigned." This conclusion has been reached based upon the reasons discussed, infra.

First, it is more likely than not that the undersigned did in fact review Coleman Exhibit 32 and fully considered the portions of the Land Development Regulations of relevance to these cases while preparing the Recommended Order. The statement that "Coleman Exhibit 32 was not provided to the undersigned" was added to the Recommended Order only because, upon review of all the exhibits filed in these cases immediately before entering the Recommended Order, the undersigned did not find Coleman Exhibit 32 and, therefore, erroneously added the stricken sentence to the Recommended Order.

Secondly, even if the document had not been reviewed, the testimony of witnesses at the final hearing of these cases and the post-hearing submittals of the parties adequately addressed and referred to the portions of Land Development Regulations of relevance to this matter. The transcript of that testimony and the post-hearing submittals of the parties were fully reviewed and considered by the undersigned in preparing and entering the Recommended Order.

Finally, in an abundance of caution, all references to the Land Development Regulations contained in the post-hearing

submittals of the parties and the Recommended Order entered in this matter have been reviewed on remand, along with the pleadings of the parties submitted in response to the December 7, 2000, Order accepting the remand of these cases. Based upon this review, no other changes in the Recommended Order entered in these cases are deemed necessary.

DONE AND ENTERED this 18th day of January, 2001, in  
Tallahassee, Leon County, Florida.

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LARRY J. SARTIN  
Administrative Law Judge  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 18th day of January, 2001.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 10 days from the date of this recommended order. Any exceptions to this recommended order should be filed with the agency that will issue the final order in this case. See Section 163.3184(9)(b), Florida Statutes (2000).