

STATE OF FLORIDA
DEPARTMENT OF HEALTH

GARY L. FRIFRSON and ALICE R.
FRIERSON,

Petitioners,

DOH/DOAH Case No. 99-2050

vs.

DEPARTMENT OF HEALTH,

Respondent.

_____/

ALICE H. FRIERSON,

Petitioner,

DOH/DOAH Case No. 99-2121

vs.

DEPARTMENT OF HEALTH,

Respondent.

_____/

FINAL ORDER

THIS CAUSE is before me for entry of a Final Order based upon the Administrative Law Judge's entry of a Recommended Order.

Although the Department of Health has been denominated by the Division of Administrative Hearings ("DOAH") as the Petitioner and bears the burden of proof, Gary L. Frierson and Alice H. Frierson petitioned for a hearing in this proceeding, and, thus, they are the Petitioners in this cause. All pleadings and papers are hereby amended to reflect the new style of this consolidated case.

In the first complete paragraph on page two (2) of the Recommended Order, the Administrative Law Judge references section 381.0081, Florida Statutes, and Rule 64F-14.004, Florida Administrative Code. However, the correct references are section 381.0083, Florida Statutes, and Rule 64E-14.004, Florida Administrative Code, respectively. Thus, the first complete paragraph on page two (2) of the Recommended Order is hereby amended to reflect references to section 381.0083, Florida Statutes, and Rule 64E-14.004, Florida Administrative Code.

In paragraph twenty-two (22) of the Recommended Order, the Administrative Law Judge references section 381.008 and section 381.008(2), Florida Statutes. However, both references should be to section 381.0081(4), Florida Statutes. Accordingly, paragraph twenty-two (22) of the Recommended Order is hereby amended to reflect references to section 381.0081(4), Florida Statutes.

In paragraph twenty-three (23) of the Recommended Order, the Administrative Law Judge references section 381.008(4), Florida Statutes. The correct reference, however, is section 381.0081(4), Florida Statutes. Thus, paragraph twenty-three (23) of the Recommended Order is hereby amended to reflect a reference to section 381.0081(4), Florida Statutes.

The changes made to the above-referenced statutory and administrative rule citations are simply corrections of scrivener's errors. These corrections do not add to or delete from the meaning or effect of the Recommended Order.

In the Recommended Order, the Administrative Law Judge concluded that the Petitioners had committed the violations alleged in the Citations issued to them. The Administrative Law Judge concluded that the Department should impose on the Petitioners an administrative fine in the amount of five hundred dollars (\$500.00) for the violation relating to the property located at 1375 S.W. Rosebud Lane, Arcadia, Florida, and that the Department should impose an additional five hundred dollar (\$500.00) administrative fine on Alice H. Frierson with respect to the property located at 1408 S.W. Rosebud Lane, Arcadia Florida. No exceptions were filed with the Department. The Recommended Order is approved and adopted, as amended.

Accordingly, it is hereby ORDERED that the Petitioners, Gary L. Frierson and Alice H. Frierson, shall remit five hundred dollars (\$500.00) to the Department of Health within fifteen (15) days from the date that this Final Order is filed with the Clerk of the Department. The Petitioners are both jointly and individually liable for the payment of this administrative fine. It is further ORDERED that Alice H. Frierson shall remit an additional five hundred dollars (\$500.00) to the Department within fifteen (15) days from the date that this Final Order is filed with the Clerk of the Department. Both fine payments shall be remitted to the Department of Health at the following address: Department of Health, Attn.: Susan Mastin Scott, Esq., 2295 Victoria Avenue, Room 206, Fort Myers, Florida 33901. Any check or money order shall be made payable to the DeSoto County Health Department.

DONE this 28th day of December, 1999, in Tallahassee, Florida.

ROBERT G. BROOKS, M.D.
Secretary, Department of Health

By: Richard G. Hunter, Ph.D.
for Deputy State Health Officer

NOTICE OF RIGHT TO JUDICIAL REVIEW

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 MAY BE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY ACCOMPANIED BY THE FILING FEES REQUIRED BY LAW WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES OR THE FIRST DISTRICT COURT OF APPEAL. THE NOTICE MUST BE FILED WITHIN 30 DAYS OF THE RENDITION OF THIS FINAL ORDER.

Copies furnished to:

Arnold H. Pollock
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

Ann Cole, Clerk
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

James M. Beesting, Esq.
207 East Magnolia Street, Suite B
Arcadia, Florida 34266

Susan Mastin Scott, Esq.
Department of Health
P.O. Box 9309
Ft. Myers, Florida 33902-0309

Eric Grimm, Chief
Department of Health
Bureau of Facility Programs
2020 Capital Circle SE
Bin A08
Tallahassee, Florida 32399-1710

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been sent by U.S. mail, hand delivery or inter-office mail to each of the above-named persons this 29th day of December 1999.

Angela Hall
Agency Clerk
Department of Health
Office of the General Counsel
2020 Capital Circle SE
Bin A02
Tallahassee, Florida 32399-1703
ph. (850) 245-4005
fax (850) 410-1448