

1-19-05

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
Haydon Burns Building
605 Suwannee Street
Tallahassee, Florida

FILED

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DIVISION OF
ADMINISTRATIVE
HEARINGS

CROWN OUTDOOR ADVERTISING,
INC., AND TROPICAL
LANDHOLDINGS, INC.,

AT

Petitioners,

vs.

DOT CASE NO.: 03-165
DOAH CASE NO.: 04-1764
04-1765
04-1766

FLB
CWS

DEPARTMENT OF TRANSPORTATION,

Respondent.

_____ /

FINAL ORDER

This proceeding was initiated by the **Petitioners, CROWN OUTDOOR ADVERTISING, INC., AND TROPICAL LANDHOLDINGS, INC.** (hereinafter **CROWN**), filing a Petition requesting an administrative hearing with the **Respondent, DEPARTMENT OF TRANSPORTATION** (hereinafter **DEPARTMENT**), on October 22, 2003. The Petition was filed in response to three (3) Notices of Denied Application (hereinafter Notices) for state sign permit application numbers 54579, 54580, 54581, 54582, 54583, and 54584, issued by the **DEPARTMENT** on September 23, 2003. **CROWN** proposed to locate the signs at State Road 93 (Interstate 75) south of Toledo Blade Boulevard, in Sarasota County, Florida. On April 19, 2004, the matter was referred to the Division of

Administrative Hearings (hereinafter DOAH) for assignment of an administrative law judge and a formal hearing.

A formal administrative hearing was held in this matter in Tallahassee, Florida, on October 7, 2004, before the Honorable Fred L. Buckine, a duly appointed administrative law judge. Appearances on behalf of the parties were as follows:

For Petitioner: Carl E. Patrick, Esquire
Carl E. Patrick, P.A.
6823 Old Ranch Road
Sarasota, Florida 34241

For Respondent: Erik R. Fenniman, Esquire
Assistant General Counsel
Department of Transportation
605 Suwannee Street, M.S. 58
Tallahassee, Florida 32399-0458

At the hearing, **CROWN** presented the testimony of Lynn Holschuh, the **DEPARTMENT'S** state outdoor advertising administrator, and James Taylor Duff, a part owner in Tropical Landholdings, Inc. **CROWN** presented Petitioner's Exhibits A, B, and C, which were admitted into evidence. The **DEPARTMENT** also presented the testimony of Ms. Holschuh; and presented Respondent's Exhibits 2, 3, and 4, which were admitted into evidence. Official recognition was taken of Chapter 479, Florida Statutes (2003); 23 C.F.R. § 750.708; Florida Administrative Code Rules 9J-5.003 and 14-10.0052; the City of North Port's Ordinance 02-46; the City of North Port's Comprehensive Plan; and the Final Order in DOAH Case No. 03-3682 issued on February 16, 2004, by Judge Barbara Staros. The transcript of the proceedings was filed on

October 22, 2004. On November 10 and 15, 2004, the **DEPARTMENT** and **CROWN** filed their respective Proposed Recommended Orders. On January 19, 2005, Judge Buckine issued his Recommended Order. No exceptions to the Recommended Order were filed.

FINDINGS OF FACT

After review of the record in its entirety, it is determined that the Findings of Fact in paragraphs 1 through 18 of the Recommended Order are supported by competent, substantial evidence. As such, they are adopted and incorporated as if fully set forth herein.

CONCLUSIONS OF LAW

1. The **DEPARTMENT** has jurisdiction over the subject matter of and the parties to this proceeding pursuant to Chapter 120 and Chapter 479, Florida Statutes.
2. The Conclusions of Law in paragraphs 20 through 24 of the Recommended Order are fully supported in the law. As such, they are adopted and incorporated as if fully set forth herein.

ORDER


Based upon the foregoing Findings of Fact and Conclusions of Law, it is

ORDERED that the Recommended Order and recommendations therein are adopted.

It is further

ORDERED that the Notices of Denied Application issued by the **Respondent**,
DEPARTMENT OF TRANSPORTATION, to the **Petitioners**, **CROWN OUTDOOR**
ADVERTISING, INC., AND TROPICAL LANDHOLDINGS, INC., are hereby affirmed.

DONE AND ORDERED this _____ day of February, 2005.

(FDR) 

JOSE ABREU, P.E.
Secretary
Department of Transportation
Haydon Burns Building
605 Suwannee Street
Tallahassee, Florida 32399

FILED D.O.I. CLERK
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NOTICE OF RIGHT TO APPEAL

THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULES 9.110 AND 9.190, FLORIDA RULES OF APPELLATE PROCEDURE, BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(d), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL, ACCOMPANIED BY THE APPROPRIATE FILING FEE, AND WITH THE DEPARTMENT'S CLERK OF AGENCY PROCEEDINGS, HAYDON BURNS BUILDING, 605 SUWANNEE STREET, M.S. 58, TALLAHASSEE, FLORIDA 32399-0458, WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

Copies furnished to:

Erik R. Fenniman, Esquire
Assistant General Counsel
Department of Transportation
Haydon Burns Building
605 Suwannee Street, M.S. 58
Tallahassee, Florida 32399-0458

The Honorable Fred L. Buckine
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550

Ms. Lynn Holschuh
State Outdoor Advertising
Administrator
Department of Transportation
Haydon Burns Building
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