

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

DEPARTMENT OF COMMUNITY
AFFAIRS,

Petitioner,

v.

DOAH Case No. 06-0050GM

CITY OF FROSTPROOF,

Respondent,

and

FJ3, LLC., MHOP PROPERTIES,
LLC, and MOODY JV. LLC.,

Intervenors.

_____ /

FILED
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DIVISION OF
ADMINISTRATIVE
HEARINGS

FINAL ORDER

An Administrative Law Judge of the Division of Administrative Hearings has entered an Order Closing File in this proceeding. A copy of the Order is attached to this Final Order as Exhibit A.

BACKGROUND

This is a proceeding to determine whether the City of Frostproof Comprehensive Plan Amendment 05-1, adopted by Ordinance Numbers 2005-50, 2005-51, 2005-52, and 2005-53 on October 31, 2005, as remediated by Comprehensive Plan Amendments 07-R1 adopted by Ordinance Number 2007-23 on July 9, 2007; 07-R2

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adopted by Ordinance Number 2007-38 on December 17, 2007; and 09-R1 adopted by Ordinance Number 2009-01 on April 6, 2009, is "in compliance" with the Local Government Comprehensive Planning and Land Development Regulation Act, Ch. 163, Part II, Florida Statutes (the "Act").

The City and the Department entered into four Stipulated Settlement Agreements to resolve Ordinance Numbers 2005-50, 2005-51, and 2005-52, which required the City to adopt certain remedial amendments. The City adopted the remedial amendments and the Department subsequently published its Cumulative Notices of Intent to find the Plan Amendments and the Remedial Amendments to be "in compliance" with Chapter 163, Part II, Florida Statutes, and Rule 9J-5, Florida Administrative Code.

No affected person, as defined by Section 163.3184(1)(a), Florida Statutes, filed a petition challenging the Cumulative Notices, and the time for doing so has expired.

By Ordinance Number 2009-22, adopted on November 2, 2009, the City of Frostproof rescinded Ordinance Number 2005-53. By virtue of this rescission, the instant controversy has been rendered moot and this proceeding must be dismissed. See Department of Highway Safety & Motor Vehicles v. Heredia, 520 So. 2d 61 (Fla. 3d DCA 1988) (dismissing case on appeal as moot where suspension of driver's license was rescinded by the Department).

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ORDER

WHEREFORE, it is ORDERED that the above-captioned proceeding is DISMISSED, and the Agency Clerk is directed to close the file.

DONE AND ORDERED this day in Tallahassee, Florida.



Shaw P. Stiller, General Counsel
DEPARTMENT OF COMMUNITY AFFAIRS
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

NOTICE OF RIGHTS

EACH PARTY IS HEREBY ADVISED OF ITS RIGHT TO SEEK JUDICIAL REVIEW OF THIS FINAL ORDER PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND FLORIDA RULES OF APPELLATE PROCEDURE 9.030(b)(1)(c) AND 9.110.


TO INITIATE AN APPEAL OF THIS ORDER, A NOTICE OF APPEAL MUST BE FILED WITH THE DEPARTMENT'S AGENCY CLERK, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100, WITHIN 30 DAYS OF THE DAY THIS ORDER IS FILED WITH THE AGENCY CLERK. THE NOTICE OF APPEAL MUST BE SUBSTANTIALLY IN THE FORM PRESCRIBED BY FLORIDA RULE OF APPELLATE PROCEDURE 9.900(a). A COPY OF THE NOTICE OF APPEAL MUST BE FILED WITH THE APPROPRIATE DISTRICT COURT OF APPEAL AND MUST BE ACCOMPANIED BY THE FILING FEE SPECIFIED IN SECTION 35.22(3), FLORIDA STATUTES.

YOU **WAIVE** YOUR RIGHT TO JUDICIAL REVIEW IF THE NOTICE OF APPEAL IS NOT TIMELY FILED WITH THE AGENCY CLERK AND THE APPROPRIATE DISTRICT COURT OF APPEAL.

MEDIATION UNDER SECTION 120.573, FLA. STAT., IS NOT AVAILABLE WITH RESPECT TO THE ISSUES RESOLVED BY THIS ORDER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing has been filed with the undersigned Agency Clerk of the Department of Community Affairs, and that true and correct copies have been furnished by U.S. Mail to each of the persons listed below on this 19th day of Feb, 2010.



Paula Ford
Agency Clerk

By U.S. Mail

The Honorable J. Lawrence Johnston
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By Hand Delivery

Lynette Norr
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Department of Community Affairs