

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

FILED

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DIVISION OF
ADMINISTRATIVE
HEARINGS

LAMAR ADVERTISING OF
FT. WALTON BEACH,

Petitioner,

vs.

DOAH CASE NO.: 07-0801

DOT CASE NO.: 06-151

DEPARTMENT OF TRANSPORTATION,

Respondent.

FINAL ORDER

On November 29, 2006, the Department of Transportation (Department) issued a Notice of Denied Application to Lamar Advertising of Ft. Walton Beach (Lamar). The notice informed Lamar that two sign permit applications were being denied because the sign would not be located within in an area that met the permitting requirements of Chapter 479, Florida Statutes. On December 19, 2006, Lamar filed a Request for Formal Hearing.

On January 22, 2007, the Department issued an Order of Dismissal because Lamar's hearing request did not meet the requirements for requesting an administrative hearing. On February 1, 2007, Lamar filed an Amended Petition for Formal Hearing. The matter was referred to the Division of Administrative Hearings (DOAH) on February 15, 2007, for assignment of an administrative law judge and a formal hearing.

On June 6, 2007, a formal administrative hearing was held in Fort Walton Beach,

Florida, before Diane Cleavinger, a duly appointed administrative law judge. Appearances on behalf of the parties were as follows:

For Petitioner: James E. Moore, Esquire
6143 Old Bethel Road
P.O. Box 1622
Crestview, Florida 32536

For Respondent: David Littlejohn, Esquire
Susan Schwartz, Esquire
Department of Transportation
605 Suwannee Street, M.S. 58
Tallahassee, Florida 32399-0458

Lamar presented the testimony of three witnesses: Chad Pickens, Billy Wayne Strickland, and Larry Wayne Adkinson, and offered eight exhibits that were admitted into evidence. The Department presented the testimony of Billy Wayne Strickland and offered seven exhibits that were admitted into evidence.

A transcript of the final hearing was filed on July 16, 2007. Both parties timely filed proposed recommended orders. On October 4, 2007, the record was reopened for submission of one additional exhibit from Lamar. A Recommended Order was issued December 13, 2007. No exceptions were filed.

STATEMENT OF THE ISSUE

The issue in this case is whether the proposed sign site qualifies as an unzoned commercial or industrial area under Section 479.01(23), Florida Statutes.

FINDINGS OF FACT

The administrative law judge's Findings of Fact in paragraphs 1 through 20 are supported by competent, substantial evidence, and are adopted and incorporated as if fully set forth herein.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over the parties and the subject matter of this proceeding pursuant to Chapters 120 and 479, Florida Statutes.
2. The Conclusions of Law contained in paragraphs 21 through 32 of the Recommended Order are fully supported by law and incorporated as if fully set forth herein.

ORDER

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

ORDERED that Lamar Advertising Company of Ft. Walton Beach's applications for outdoor advertising sign permits (application numbers 56274 and 56275) for a two-sided sign structure to be located .10 miles south of South Bay Grove Road on U.S. 331 in Walton County, Florida, are granted.

DONE AND ORDERED this 11th day of February, 2008.



Stephanie C. Kopelousos
Secretary

Department of Transportation
Haydon Burns Building
605 Suwannee Street
Tallahassee, Florida 32399

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NOTICE OF RIGHT TO APPEAL

THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY. 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 9.100(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 30 DAYS OF RENDITION OF THIS ORDER.

Copies furnished to:

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

Lynn Holschuh
State Outdoor Advertising Administrator
Department of Transportation
Haydon Burns Building, M.S. 22
605 Suwannee Street
Tallahassee, Florida 32399-0422

James E. Moore, Esquire
P.O. Box 1622
Crestview, Florida 32536

Diane Cleavinger
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060