

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

FILED  
08 MAY 23 PM 2:24  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

LAMAR OUTDOOR ADVERTISING-  
LAKELAND,

Petitioner,

vs.

DEPARTMENT OF TRANSPORTATION,

Respondent.

DOAH CASE NO.: 07-4732

DOAH CASE NO.: 07-4734

DOT CASE NO.: 06-036

DOT CASE NO.: 06-037

FINAL ORDER

This proceeding was initiated by the timely filing of Petitions for Formal Administrative Hearing by Petitioner, Lamar Outdoor Advertising-Lakeland (Lamar), in response to Notices of Intent to Revoke Sign Permits issued on March 21, 2006, and revised Notices issued on July 31, 2007, by the Respondent, Department of Transportation (Department). The sign permits in issue are numbers 13778 and 13779 for sign tag numbers BT339 and AE862, and number 7359 for sign tag number AX116. On October 12, 2007, the matters were referred to the Division of Administrative Hearings (DOAH) for assignment of an Administrative Law Judge and a formal hearing. An order consolidating the cases was issued December 17, 2007.

A formal administrative hearing was held in these cases in Tallahassee, Florida, on December 20 2007, before Lawrence P. Stevenson, a duly appointed Administrative Law Judge. Appearances on behalf of the parties were as follows:

For Petitioner: Gerald S. Livingston, Esquire  
Pennington, Moore, Wilkinson, Bell & Dunbar, P.A.  
215 South Monroe Street, Suite 200  
Tallahassee, Florida 32301

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

At the hearing Lamar presented the testimony of Dave Henry, and offered Petitioner's Exhibits 1 through 3, which were admitted into evidence. The Department presented the telephonic testimony of Steve Leslie and Mark A. Johnson, and in-person testimony of Lynn Holschuh, and offered Respondent's Exhibits 1 through 17, which were admitted into evidence. The transcript from the December 20, 2007, hearing was filed January 7, 2008. The Department filed its Proposed Recommended Order on January 28, 2008, and Lamar filed its Proposed Recommended Order on January 29, 2008. On February 21, 2008, Judge Stevenson issued his Recommended Order. On March 7, 2008, Lamar filed its exceptions to the Recommended Order, and the Department filed its responses to Lamar's exceptions on March 17, 2008.

#### **STATEMENT OF THE ISSUE**

As stated by the Administrative Law Judge in his Recommended Order, the issue presented was "whether the permits for signs bearing tag numbers BT339, AE862, and AX116 should be revoked, pursuant to Section 479.08, Florida Statutes (2007)."

#### **EXCEPTIONS TO RECOMMENDED ORDER**

Lamar takes exception to Conclusions of Law 24, 25, 27, 28, and 29.

Regarding an agency's treatment of conclusions of law, Section 120.57(1)(I), Florida

Statutes provides:

The agency in its final order may reject or modify the conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction. When rejecting or modifying such conclusion of law or interpretation of administrative rule, the agency must state with particularity its reasons for rejecting or modifying such conclusion of law or interpretation of administrative rule and must make a finding that its substituted conclusion of law or interpretation of administrative rule is as or more reasonable than that which was rejected or modified.

After consideration of Lamar's exceptions to Conclusions of Law 24, 25, 27, 28, and 29, the Department finds that these Conclusions of Law comport with the Department's interpretation and application of controlling statutes and rules over which it has substantive jurisdiction and are otherwise fully supported in law. Accordingly, Lamar's exceptions to Conclusions of Law 24, 25, 27, 28 and 29 are rejected.

#### **FINDINGS OF FACT**

After review of the record in its entirety, it is determined that 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 subject matter of and the parties to this proceeding pursuant to Chapters 120 and 479, Florida Statutes.
2. The Conclusions of Law in paragraphs 21 through 29 of the Recommended Order are fully supported in law, and 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 Lamar Outdoor Advertising-Lakeland's sign permit numbers 13778 and 13779 for sign tag numbers BT339<sup>1</sup> and AE862 and sign permit number 7359 for sign tag number AX116 are revoked.

**ORDERED** that Lamar Outdoor Advertising-Lakeland shall remove the outdoor advertising signs it maintains under sign permit numbers 13778 and 13779, tag numbers BT339/CF221 and AE862 and sign permit number 7359, tag number AX116, within 30 days of this Order. It is further

**ORDERED** that should Lamar Outdoor Advertising-Lakeland fail to remove the signs within the next 30 days, the Department of Transportation, or its contractor, will remove the signs without further notice and the cost of removal is hereby assessed against Lamar Outdoor Advertising-Lakeland, pursuant to Section 479.10, Florida Statutes.

**DONE AND ORDERED** this 20<sup>th</sup> day of May, 2008.



Stephanie C. Kopelousos  
Secretary  
Department of Transportation  
Haydon Burns Building  
605 Suwannee Street  
Tallahassee, Florida 32399

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<sup>1</sup> At the time of hearing, tag number BT339 had been replaced by tag number CF221.

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 THIRTY (30) DAYS OF RENDITION OF THIS ORDER.**

Copies furnished to:

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Lynn Holschuh  
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