

STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS

JOSEPH CURCIO AND PAUL DAVIES,

Petitioners,

vs.

DOAH CASE NO. 08-0248GM

DEPARTMENT OF COMMUNITY AFFAIRS  
and CITY OF CAPE CORAL,

Respondents.

FILED  
2010 FEB - 1 A 11:02  
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 Cape Coral (City) Comprehensive Plan Amendment 09-R1, adopted by Ordinance 63-09, on November 30, 2009, is "in compliance" with the Local Government Comprehensive Planning and Land Development Regulation Act, Ch. 163, Part II, Florida Statutes (the "Act").

On December 27, 2007, the Department issued its Notice of Intent to find the City Comprehensive Plan Amendment 07-1ER adopted by Ordinance 37-07 "in compliance." Petitioners

FINAL ORDER NO. DCA10-GM-016

challenged the 07-1ER amendment by filing a Petition for Hearing on January 15, 2008.


All parties to this proceeding entered into a Stipulated Settlement Agreement which required the City to adopt certain amendments. The City adopted the amendments and the Department subsequently published its Notice of Intent to find the amendments "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 Notice, and the time for doing so has expired.

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.

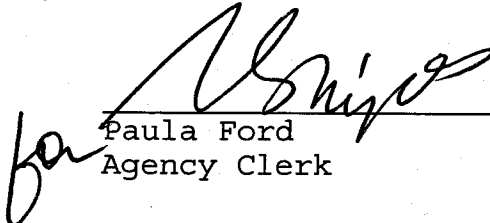
TO INITIATE AN APPEAL OF THIS ORDER, A NOTICE OF APPEAL MUST BE FILED WITH THE DEPARTMENT'S AGENCY CLERK, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100, WITHIN 30 DAYS OF THE DAY THIS ORDER IS FILED WITH THE AGENCY CLERK. THE NOTICE OF APPEAL MUST BE SUBSTANTIALLY IN THE FORM PRESCRIBED 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 as indicated to each of the persons listed below on this 29 day of January, 2010.

  
Paula Ford  
Agency Clerk

**By U.S. Mail**

Mark E. Lupe, Esquire  
Assistant City Attorney  
City of Cape Coral  
Post Office Box 150027  
Cape Coral, Florida 33915-0027

Jeffrey Brown, Esquire  
Oertel Fernandez Cole & Bryant PA  
PO Box 1110  
Tallahassee, Florida 32302-1110

**By Hand Delivery**

Lynette Norr  
Assistant General Counsel  
Department of Community Affairs

**By Interoffice Mail**

The Honorable Donald R. Alexander  
Administrative Law Judge  
Division of Administrative Hearings  
The Desoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060