

1/15/10

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

DEPARTMENT OF COMMUNITY
AFFAIRS,

Petitioner,
and

DIANE BROWN,

Intervenor,

vs.

Case No. 08-5791GM

BAY COUNTY,

Respondent,

and

CEDAR CREEK RANCH, INC.,

Intervenor.

DIANE BROWN,

Petitioner,

v.

Case No. 08-5962GM

BAY COUNTY and DEPARTMENT OF
COMMUNITY AFFAIRS,

Respondents,

and

CEDAR CREEK RANCH, INC.,

Intervenor.

FINAL ORDER

An Administrative Law Judge of the Division of Administrative Hearings has entered an Order Closing Files 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 Bay County's Comprehensive Plan Amendments adopted by Ordinance Number 08-46 ("Ordinance") on September 16, 2008 ("Amendments") are "in compliance" with the Local Government Comprehensive Planning and Land Development Regulation Act, Ch. 163, Part II, Florida Statutes. The Amendments consisted of a text amendment which increased the allowable density for lands designated Rural Residential within the Sand Hills Rural Community from one unit per acre to four units per acre if served with central sewer service ("Text Amendment") and a map amendment which amended and enlarged the map of the Sand Hills Community ("Map Amendment").

On November 5, 2008, the Department issued its Notice of Intent finding the Text Amendment to be not "in compliance", as that term is defined by Section 163.3184(1)(b), Florida Statutes. Subsequently, the Department filed a Petition for Formal Administrative Hearing regarding the not "in compliance" determination and the case was assigned Division of Administrative Hearings ("DOAH") Case Number 08-5791. On December 2, 2008, the Department forwarded to DOAH Petitioner Diane Brown's Petition to Intervene in Administrative Hearing on Portions of Comprehensive Plan Amendment Found Not in Compliance and Request for Administrative Hearing on Portion of

Comprehensive Plan Amendment Found in Compliance, i.e. the Map Amendment, and the case was assigned DOAH Case Number 08-5962. On December 12, 2008, the Administrative Law Judge issued an Order of Consolidation of Cases for DOAH Case Numbers 08-5791 and 08-5962. Cedar Creek Ranch, Inc., was granted leave to intervene in the consolidated cases on August 7, 2009.

On December 15, 2009, Bay County (“County”) adopted Ordinance Number 09-46, which Ordinance repealed in its entirety Ordinance Number 08-46. A copy of Ordinance Number 09-46 is appended hereto as Exhibit B. By repealing the Ordinance pursuant to which the disputed comprehensive plan amendments were adopted, the County eliminated the compliance issues in this matter.

As the comprehensive plan amendments at issue in this consolidated proceeding were repealed, the Department suggested that the proceeding had been rendered moot and requested that DOAH relinquish jurisdiction back to the Department for the entry of a Final Order. On January 13, 2010, DOAH closed its file and relinquished jurisdiction back to the Department for further action.

The Amendments at issue in this proceeding have been repealed, rendering the matter entirely moot. *Department of Highway Safety & Motor Vehicles v. Heredia*, 520 SO. 2d 61 (Fla. 3d DCA 1988)(appeal regarding driver’s license suspension dismissed as moot where suspension was rescinded by the Department).

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 in Tallahassee, Florida.



Shaw P. Stiller
General Counsel

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.

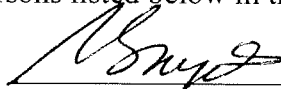

TO INITIATE AN APPEAL OF THIS ORDER, A NOTICE OF APPEAL MUST BE FILED WITH THE DEPARTMENT'S AGENCY CLERK, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100, WITHIN 30 DAYS OF THE DAY THIS ORDER IS FILED WITH THE AGENCY CLERK. THE NOTICE OF APPEAL MUST BE SUBSTANTIALLY IN THE FORM PRESCRIBED 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 to the persons listed below in the manner described, on this 15th day of January, 2010.

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Agency Clerk
Florida Department of Community Affairs
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