

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

FILED

2009 AUG 20 A 10:56

DIVISION OF
ADMINISTRATIVE
HEARINGS

DEPARTMENT OF COMMUNITY
AFFAIRS,

Petitioner,

vs.

DOAH Case No. 08-6383GM

MIAMI-DADE COUNTY,

Respondent,

and

107TH AVENUE GAMMA,LLC,

Intervenor.

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 Application Numbers 1, 3, and 6 (“Applications”) in the Miami-Dade County 08-1 comprehensive plan amendment adopted by Ordinance No. 08-43 on April 24, 2008 (“Amendment”), are “in compliance” with the Local Government Comprehensive Planning and Land Development Regulation Act, Ch. 163, Part II, Florida Statutes. The Department reviewed the Applications and issued a Notice and Statement of Intent to find them not “in compliance.”

The Applications were found to be not “in compliance” because, pursuant to Section 163.3177(12)(i), Florida Statutes, the County had not executed its updated Public Schools Interlocal Agreement (“ILA”) with the County School Board and the County had not adopted its revised Public Schools Facilities Element (“PEFE”). Although the County had adopted and transmitted a PEFE in July 2008, the Department could not determine whether the adopted PEFE was consistent with the ILA until the County and the School Board executed, adopted, and transmitted the ILA to the Department. Therefore, pursuant to Section 163.3177(12)(j), Florida Statutes, the County was prohibited from adopting the Applications, each of which increases residential densities, as amendments to its comprehensive plan until the necessary school amendments had been adopted and transmitted to the Department for its review.

On April 22, 2009, the County and the School Board executed the ILA. On June 26, 2009, the Department issued a Notice of Intent finding the PEFE “in compliance”. Additionally, on June 26, 2009, the Department found the ILA to be “in compliance.”

Due to the Department’s “in compliance” finding of the ILA and the PEFE, there were no further compliance issues with the Applications. Therefore, on July 23, 2009, the Department issued an Amended Notice of Intent finding the Applications “in compliance.”

No party has filed a petition for administrative hearing with respect to the Amended Notice of Intent. Accordingly, the Department filed with the Division of Administrative Hearings a Motion to Close File and Relinquish Jurisdiction. On August 18, 2009, the Administrative Law Judge issued his Order Closing File.

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.

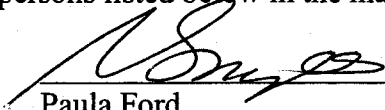
TO INITIATE AN APPEAL OF THIS ORDER, A NOTICE OF APPEAL MUST BE FILED WITH THE DEPARTMENT'S AGENCY CLERK, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100, WITHIN 30 DAYS OF THE DAY THIS ORDER IS FILED WITH THE AGENCY CLERK. THE NOTICE OF APPEAL MUST BE SUBSTANTIALLY IN THE FORM PRESCRIBED 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 14 day of August, 2009.


Paula Ford
Agency Clerk
Florida Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

U.S. Mail:

J. Lawrence Johnston
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-1550

Dennis A. Kerbel, Esq.
Office of the County Attorney
111 N.W. 1st Street
Suite 2810
Miami, Florida 33128

Martha Harrell Chumbler, Esq.
Carlton Fields, P.A.
P.O. Box 190
Tallahassee, Florida 32302

Hand Delivery:

Richard E. Shine, Esq.
L. Mary Thomas, Esq.
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, Florida 32399