

911

Final Order No. DCA09-GM-301

**STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS**

LYNN ANDERSON, SAVE OUR
NEIGHBORHOOD, INC., KATHLEEN
MCGIVERON, BETTY ANDERSON, and
TRIPP CIOCI,

Petitioners,

**DOAH Case Nos. 09-1843GM
09-1919GM
09-1920GM
09-2287GM
09-2290GM**

vs.

CITY OF LAKE WORTH AND
DEPARTMENT OF COMMUNITY
AFFAIRS,

Respondents,

and

SUNSET DRIVE HOLDINGS, LLC,

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 the City of Lake Worth's Comprehensive Plan Amendment adopted by Ordinance No. 2006-04 on June 6, 2006 ("Amendment") is "in compliance" with the Local Government Comprehensive Planning and Land Development

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Regulation Act, Ch. 163, Part II, Florida Statutes. The Amendment changed the City's Future Land Use Map designation of an approximately four (4) acre parcel from the Palm Beach County Medium Residential 5 designation (with a maximum of 5 DUs/Acre) to the City's Medium Density Residential designation (with a maximum of 20DUs/Acre). The Department reviewed the Amendment and issued a Notice and Statement of Intent to find it "in compliance".

Petitions for Formal Administrative Hearing ("Petitions"), challenging the Department's "in compliance" determination of the Amendment, were submitted to the Department by: Lynn Anderson; Save Our Neighborhood, Inc.; Kathleen McGiveron; Betty Anderson; and Tripp Cioci (collectively, "Petitioners"). The Department forwarded the Petitions to the Division of Administrative Hearings and case numbers were assigned to each petition. On April 20, 2009 and May 1, 2009, the Administrative Law Judge consolidated the Petitions. Sunset Drive Holdings, LLC, was granted leave to intervene on May 6, 2009.

On August 25, 2009, the City adopted Ordinance No. 2009-21, which Ordinance repealed in its entirety Ordinance No. 2006-04. A copy of Ordinance 2009-21 is appended hereto as Exhibit B. By repealing the Ordinance pursuant to which the disputed comprehensive plan amendment was adopted, the City eliminated the compliance issues in this matter.

As the comprehensive plan amendment at issue in this proceeding was repealed, the Department suggested that the proceeding had been rendered moot and requested that DOAH relinquish jurisdiction back to the Department for the entry of a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 August 31, 2009, DOAH closed its file and relinquished jurisdiction back to the Department for further action.

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The Amendment at issue in this proceeding has 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.

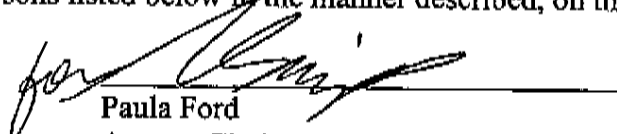
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MEDIATION UNDER SECTION 120.573, FLA. STAT., IS NOT AVAILABLE WITH RESPECT TO THE ISSUES RESOLVED BY THIS ORDER.

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 1st day of August, 2009.

Sept



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Agency Clerk
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