

**STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS**

CALLERY-JUDGE GROVE, L.P., and
SEMINOLE IMPROVEMENT DISTRICT,
Petitioners,

v.

DOAH Case No.: 09-2859GM

TOWN OF LOXAHATHCEE GROVE and
THE STATE OF FLORIDA, DEPARTMENT
OF COMMUNITY AFFAIRS,

Respondents.

_____ /

FINAL ORDER

An Administrative Law Judge (“ALJ”) of the Division of Administrative Hearings has entered an Order Closing File which relinquishes jurisdiction to the Department of Community Affairs (“Department”) of all of the issues raised in the Petition. A copy of the Order is attached to this Final Order as Exhibit A.

BACKGROUND

This is a proceeding to determine whether the Town of Loxahatchee Grove’s initial Comprehensive Plan (the “Comprehensive Plan”), adopted by Ordinance No. 08-006 on February 17, 2009, is “in compliance” with the Community Planning Act, Ch. 163, Part II, Florida Statutes (as amended by Chapter 2011-139, Laws of Florida).

The Town of Loxahatchee Grove (“Loxahatchee”) incorporated in October 2006, by passage of Ch. 2006-328, Laws of Florida (2006). Upon its incorporation, Loxahatchee operated under Palm Beach County’s 1989 Comprehensive Plan as it existed on the date of Loxahatchee’s

incorporation, which served as the Town's interim comprehensive plan until the Department¹ or the Administration Commission issued Final Order finding the Loxahatchee Comprehensive Plan "in compliance." § 10, Ch. 2006-328, Laws of Florida (2006).

On May 6, 2009, Petitioners Callery-Judge Grove L.P., and Seminole Improvement District filed a Petition for Formal Administrative Hearing challenging the Department's Notice of Intent to find the Loxahatchee Comprehensive Plan "in compliance." On July 26, 2011, Petitioners filed a Notice of Voluntary Dismissal and withdrew their Petition. On July 27, 2011, the Division of Administrative Hearings issued an Order Closing File and relinquishing jurisdiction to the Department.

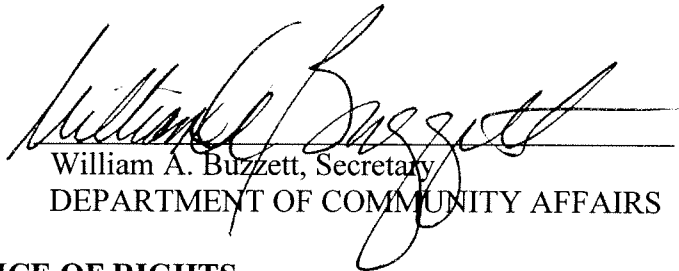
Since the Comprehensive Plan at issue in this proceeding is a new comprehensive plan for a newly incorporated municipality, it is subject to the State Coordinated Review Process. § 163.3184(2)(c), Fla. Stat. (as amended by Ch. 2011-139). Because the Town of Loxahatchee Grove's Ordinance No. 08-006 included a self-limiting effective date clause, the new Comprehensive Plan will not become effective until the Department or the Administration Commission issues a final order determining that the Comprehensive Plan is in compliance. § 163.3184(4)(e)5, Fla. Stat. (as amended by Ch. 2011-139). Since the ALJ relinquished jurisdiction to the Department to take final action, the Department is the appropriate agency to enter this Final Order. § 163.3184(5)(e), Fla. Stat. (as amended by Ch. 2011-139).

¹ In Ordinance No. 2008-006, the Town of Loxahatchee Grove adopted a Comprehensive Plan and included a self-limiting clause with respect to the effective date of the Plan requiring a final order to be issued by the Department of Community Affairs or the Administration Commission. Because the challenged Town of Loxahatchee Grove Comprehensive Plan was not in effect, all plan amendments post incorporation have been to the Town's interim comprehensive plan.

ORDER

WHEREFORE, it is ORDERED that Town of Loxahatchee Grove Comprehensive Plan, adopted by Ordinance No. 08-006 on February 17, 2009, is "in compliance" with the Community Planning Act, Ch. 163, Part II, Florida Statutes (as amended by Chapter 2011-139, Laws of Florida).

DONE AND ORDERED in Tallahassee, Florida.


William A. Buzzett, Secretary
DEPARTMENT OF COMMUNITY AFFAIRS

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.

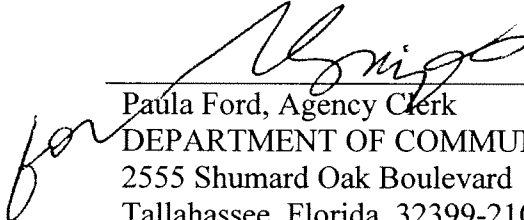
TO INITIATE AN APPEAL OF THIS ORDER, A NOTICE OF APPEAL MUST BE FILED WITH THE DEPARTMENT'S AGENCY CLERK, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100, WITHIN 30 DAYS OF THE DAY THIS ORDER IS FILED WITH THE AGENCY CLERK. THE NOTICE OF APPEAL MUST BE SUBSTANTIALLY IN THE FORM PRESCRIBED 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 *JJH* day of July 2011.

for 

Paula Ford, Agency Clerk
DEPARTMENT OF COMMUNITY AFFAIRS
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By U.S. Mail:

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By Filing with DOAH:

The Honorable D. R. Alexander
Administrative Law Judge
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