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DIVISION OF ADMINISTRATIVE HEARINGS

FINAL ORDER NO. AC-10-006

STATE OF FLORIDA
ADMINISTRATION COMMISSION

TIERRA VERDE COMMUNITY ASSOCIATION, INC., MAURA J. KIEFER, and MICHAEL MAURO,

Petitioners,

AC Case No. ACC-10-002
DOAH Case No. 09-3408GM

vs.

CITY OF ST. PETERSBURG, FLORIDA,

Respondent.

_______________________________________/

FINAL ORDER

This cause came before the Governor and Cabinet, sitting as the Administration Commission ("Commission"), on November 9, 2010, on the Recommended Order entered by Division of Administrative Hearings ("DOAH") in Case No. 09-3408GM ("Recommended Order"). This proceeding is brought pursuant to section 163.32465, Florida Statutes, challenging an amendment to a local comprehensive plan adopted by the City of St. Petersburg, Florida ("City").

BACKGROUND

This case involves land located on a barrier island in Boca Ciega Bay known as Tierra Verde. The land consists of 13 separate parcels under various ownership totaling 18.25 acres ("Land"). As an unincorporated area within the boundaries of Pinellas

County ("County"), most[1] of the Land had been classified for land use planning purposes as "Commercial General." On the Land, there are various retail stores and professional offices, surrounded by neighboring residential properties. In November 2008, the City annexed the Land from the County.[2] On May 21, 2009, the City adopted an ordinance amending the Future Land Use Map ("FLUM") of the City's comprehensive plan ("Plan Amendment"). Ordinance 2009-689-L would classify 17.28 acres of the recently annexed Land as Commercial General ("CG") and the remaining parcels as Residential Low ("RL"), which are the same as the holdover designations by the County. However, the City's "CG" designation has no overlay restrictions currently in place, and as a result, it would allow residential and more intensive commercial development. On June 22, 2009, Petitioners filed a petition at DOAH challenging the Plan Amendment, which was assigned to an Administrative Law Judge ("ALJ").

The ALJ conducted an evidentiary hearing on March 23-25, 2010, in St. Petersburg, Florida. On June 30, 2010, he entered a Recommended Order, recommending that the Commission enter a final order determining that the Plan Amendment is not "in compliance" under section 163.3184(1)(b), Florida Statutes. The City filed timely exceptions to the Recommended Order, and the Petitioners filed responses to the City's exceptions.

This Final Order serves as final agency action in this proceeding.

COMPLIANCE DETERMINATION

The Commission is authorized to take final agency action on whether the Amendment to the City's Comprehensive Plan are "in compliance," and if an

[1] Of the total, 17.28 acres are CG. Five vacant lots comprising 0.97 acres are designated as Residential Low (RL).

[2] The annexation is the subject of a legal challenge in circuit court. The case is still pending.

Amendment is found not "in compliance," to specify remedial actions which would bring the Amendment into compliance. § 163.3184(10)(b) & (11)(a), Fla. Stat.

STANDARD OF REVIEW

The Administrative Procedure Act provides that the Commission will adopt the ALJ's Recommended Order except under certain limited circumstances. First, the Recommended Order must be the product of a hearing process that is consistent with essential requirements of law, which, in this case, include a *de novo* proceeding and the assignment of the burdens of persuasion and proof to the Petitioner. Young v. Department of Community Affairs, 625 So. 2d 831, 835 (Fla. 1993). The ALJ properly conducted the hearing process in this proceeding.

Regarding the Recommended Order itself, there is one standard of review for findings of fact, and a different standard of review for conclusions of law.

The Commission has very limited authority to reject or modify the ALJ's findings of fact:

> The agency may not reject or modify the findings of fact unless the agency first determines from a review of the entire record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law.

§ 120.57(1)(*l*), Fla. Stat.

When fact-finding functions have been delegated to an ALJ, as is the case here, the Commission must rely upon the record developed before the ALJ. Fox v. Treasure Coast Reg'l Planning Council, 442 So. 2d 221, 227 (Fla. 1st DCA 1983). It is not proper for the Commission to supplement the record on an issue over which the ALJ made no findings of fact. Florida Power & Light Co. v. State of Florida, 693 So. 2d 1025, 1026-

27 (Fla. 1st DCA 1997). The ALJ in an administrative proceeding is the trier of fact, and he or she is privileged to weigh and reject conflicting evidence. Cenac v. Fla. State Bd. of Accountancy, 399 So. 2d 1013, 1016 (Fla. 1st DCA 1981). Therefore, "[i]t is the hearing officer's function in an agency proceeding to consider all the evidence presented, resolve conflicts, judge credibility of witnesses, draw permissible inferences from the evidence, and reach ultimate findings of fact based on competent, substantial evidence." Bejarano v. State of Fla., 901 So. 2d 891, 892 (Fla. 4th DCA 2005) (quoting Heifetz v. Dep't of Bus. Regulation, 475 So. 2d 1277, 1281 (Fla. 1st DCA 1985) (citing State Beverage Dep't v. Ernal, Inc., 115 So. 2d 566 (Fla. 3rd DCA 1959))).

The term "competent substantial evidence" means any evidence that will "establish a substantial basis of fact from which a fact at issue can be reasonably inferred," and evidence which "should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached." De Groot v. Sheffield, 95 So. 2d 912, 916 (Fla. 1957). The term does not relate to the quality, character, convincing power, probative value or weight of the evidence, only to the existence of some admissible evidence on each essential element. Scholastic Book Fairs, Inc. v. Unemployment Appeals Comm'n, 671 So.2d 287, 290 n.3 (Fla. 5th DCA 1996). In short, the Commission cannot reweigh evidence considered by the ALJ, and cannot reject or modify findings of fact made by the ALJ if those findings of fact are supported by substantial competent evidence in the record. Heifetz, 475 So. 2d at 1281.

However, the Commission may modify or reject conclusions of law in the Recommended Order over which it has substantive jurisdiction, and the standard for review is well settled. See § 120.57(1)(l), Fla. Stat. When rejecting or modifying a conclusion of law, the Commission must state with particularity its reasons for rejecting

or modifying such conclusion of law. Any substituted conclusion of law must be as or more reasonable than the conclusion of law provided by the ALJ in the Recommended Order. Id.

The label assigned a statement is not dispositive as to whether it is a finding of fact or conclusion of law. Kinney v. Department of State, 501 So. 2d 1277 (Fla. 5th DCA 1987). Conclusions of law labeled as findings of fact, and findings labeled as conclusions, will be considered as a conclusion or finding based upon the statement itself and not the label assigned.

EXCEPTIONS

Any party to an administrative hearing may file exceptions to the recommended order objecting to a finding of fact or conclusion of law by the ALJ. Exceptions must be filed with the agency responsible for final agency action, which in this case is the Commission. There are no particular format requirements for exceptions. However, at a minimum, each exception must identify by number which finding of fact or conclusion of law is excepted to, and those portions of the record that support the exception. See 1998 WL.

The Respondent filed 19 exceptions to the Recommended Order's findings of fact and conclusions of law. The Petitioners filed responses to all 19 exceptions. The Commission will address and rule on each exception in the order presented, after dispensing with one preliminary matter.

. . .

Exception 12: Standing

First, we choose to address the lone procedural objection raised in the Respondent's exceptions. The Respondent takes issue with the ALJ's conclusion of law, in paragraph 82, that Tierra Verde Community Association has standing as an "affected person" to be a petitioner in this proceeding.

The ALJ concludes as follows:

> 82. The Administration Commission liberally interprets "operating a business" for the purpose of standing as an affected person. See Dept. of Comm. Affairs v. Miami-Dade County, AC Case No. ACC-09-003 (Final Order July 30, 2009) (1000 Friends' activities in Miami-Dade County to promote growth management, affordable housing, and Everglades restoration were sufficient to establish that 1000 Friends operates a business). Therefore, it is concluded that TVCA's powers and responsibilities with respect to the easements, and their imposition and collection of assessments on the subject properties, are sufficient to establish that TVCA operates a business within the City and, therefore, that TVCA is an affected person.

Comprehensive plan proceedings are governed by section 163.3184(1)(a), Florida Statutes, which provides as follows:

> "Affected person" includes the affected local government; persons owning property, residing, or owning or operating a business within the boundaries of the local government whose plan is the subject of the review; owners of real property abutting real property that is the subject of a proposed change to a future land use map; and adjoining local governments that can demonstrate that the plan or plan amendment will produce substantial impacts on the increased need for publicly funded infrastructure or substantial impacts on areas designated for protection or special treatment within their jurisdiction. Each person, other than an adjoining local government, in order to qualify under this definition, shall also have submitted oral or written comments, recommendations, or objections to the local government during the period of time beginning with the transmittal hearing for the plan or plan amendment and ending with the adoption of the plan or plan amendment.

The Respondent disputes only the ALJ's determination that the Association "operates a business" in the area and is therefore an "affected person" under the statute. In reaching his conclusion, the Respondent claims that the ALJ has misapplied one of our recent final orders and several appellate decisions that have construed the statute. These courts have held that "operating a business" requires more than having an "incidental and transient presence," such as attending public hearings in particular cases. Rather, the statute requires "a more substantial local nexus, of a type which might make the business potentially subject to the constraints of the local comprehensive plan." St. Joe Paper Co. v. Department of Community Affairs, 657 So. 2d 27, 28-29 (Fla. 1st DCA 1995) (participation in the local planning process is a prerequisite but not by itself enough to establish standing under section 163.3184(1)(a)). Moreover, conducting some business activity in the area is not the same as "owning or operating a business" in the area. Potiris v. Department of Community Affairs, 947 So. 2d 598, 599 (Fla. 4th DCA 2007) (providing land use consulting services to residents within the jurisdiction affected is not sufficient to establish standing under section 163.3184(1)(a)). In light of this judicial guidance, there is no need to consult previous Commission orders on this point.

The facts in the cases cited by the Respondent are clearly distinguishable from the current proceeding. Here, the ALJ found that the Association holds property rights, management responsibilities, and assessment authority over land now within the City's jurisdiction (pending annexation). Consequently, its rights and powers would presumably be subject to the constraints of the City's Comprehensive Plan. Therefore, the Association has "a more substantial nexus" to the jurisdiction than did the parties involved in St. Joe Paper Co. and Potiris. Id.

Notwithstanding the factual differences, the holdings in those cases and several DOAH orders lend support the ALJ's conclusion. Accordingly, the Respondent's legal argument is not as or more reasonable than the ALJ's conclusion of law. **Respondent's Exception 12 is denied.**

Exception 1: Workforce Housing Ordinance ("WHO")

In Exception 1, the Respondent takes exception to paragraph 16, claiming there is no evidence that "the WHO has been requested by the developers or that the development would qualify for the WHO." Yet the ALJ makes no reference to any invoking of the WHO, only the potential if it were to be invoked:

> 16. The City has a workforce housing ordinance that allows residential density to be increased another six units per acre for qualifying developments. If the potential maximum number of workforce housing units were added, 518 residential units could be developed on the lands designated by CG.

This finding of fact is supported by testimony. T. 77. There is competent substantial evidence in the record to support the ALJ's finding of fact. The Commission cannot reweigh the evidence and reach different findings of fact than the ALJ.

Respondent's Exception 1 is denied.

Exception 2: Emergencies

In Exception 2, the Respondent takes exception to paragraph 28, claiming that the ALJ's finding is not supported by competent, substantial evidence, and contending that there is evidence in the record sufficient to support different findings of fact. The ALJ states:

> 28. The City did not evaluate, in conjunction with the Plan Amendment, the effect that re-development of the 17.28 acres of CG lands for the maximum allowable residences or hotel units would have on hurricane evacuation and shelter capacity. The city

> asserts that, because the subject properties were not in CHHA, such an evaluation was unnecessary.

There was expert testimony that the City did not have "any data, whatsoever, in regards to impacts on hurricane evacuation or shelter spaces," and that no analysis was done by the City. T. 215-216, 220-221, 227.

The ALJ heard conflicting testimony regarding the extent of the City's consideration of evacuation times and shelter capacities, and made specific findings of fact on the subject. Given the discretion afforded to the fact-finder as to the credibility of witnesses and expert opinion, the Commission cannot reweigh or favor the parts of the record referred to by Respondent.

There is competent substantial evidence in the record to support the ALJ's finding of fact. The Commission cannot reweigh the evidence and reach different findings of fact than the ALJ. **Respondent's Exception 2 is denied.**

Exception 3: Need

In Exception 3, the Respondent takes exception to paragraph 38, disputing the ALJ's finding that no needs analysis was conducted for the Plan Amendment. It contends that there is evidence in the record demonstrating that the City has completed population projections, and argues that nothing more is required. The ALJ states:

> 38. The City did not perform a population-based "needs analysis" for the Plan Amendment. The City stated that it does not use population projections to determine the need for residential density increases because the City is essentially "built out."

There is testimony in the record to support this finding of fact. T. 215, 242. Contrary to Respondent's suggestion, the ALJ does not assign any legal meaning this finding of fact. There is competent substantial evidence in the record to support the ALJ's finding of fact.

The Commission cannot reweigh the evidence and reach different findings of fact than the ALJ. **Respondent's Exception 3 is denied.**

Exceptions 4 and 5: Compatibility

In Exceptions 4 and 5, the Respondent takes exception to paragraphs 52 and 53, disputing the ALJ's finding on the City's position, that it was considered premature to analyze compatibility without a development proposal. The ALJ states:

> 52. Petitioners contend that the "surrounding uses" on Tierra Verde are not compatible with the uses allowed under the Plan Amendment. The City responds that compatibility cannot be determined until a future development proposal is submitted for the subject properties.
>
> 53. A compatibility analysis is required for this "in compliance" determination for the Plan Amendment. Although a compatibility analysis for a comprehensive plan amendment is a more "macro" or general evaluation than at the time of a specific development application, the issue is not one that can be put off until the City reviews a development proposal for the subject properties.

In the Respondent's view, the ALJ mischaracterized its position by omitting the word "final" before the word "compatibility" in paragraph 52. However, the first statement is plainly supported by the testimony. T. 238, 265. The second statement is a reasonable inference drawn from the Respondent's Proposed Recommended Order submitted to the ALJ. Similarly, the Respondent objects to the "apparent finding" in paragraph 53 that the City wanted to "put off" a compatibility analysis. The Commission is not at liberty to modify a finding of fact where there is competent, substantial evidence to support it. With regard to the remaining portions of the exceptions, the Commission cannot reweigh the evidence and reach different findings of fact than the ALJ. **Respondent's Exceptions 4 and 5 are denied.**

Exception 6: Compatibility

In Exception 6, the Respondent takes exception to paragraph 54, disputing the ALJ's finding that the Plan Amendment is not a "limited variation" in use. The ALJ states:

> 54. Using the City's own definition of compatibility as "limited variation" from adjacent uses in net density and type use, it is found that, if the subject properties were developed to attain the maximum residential units or maximum hotel units, it would not be a "limited variation" from adjacent densities and use types. Therefore, these scenarios allowed by the Plan Amendment are not compatible with adjacent land uses. To find otherwise would render the term "limited variation" in the city's definition of compatibility meaningless.

This finding is supported by testimony. T. 236-239, 264-265. There is competent substantial evidence in the record to support the ALJ's finding of fact. The Commission cannot reweigh the evidence and reach different findings of fact than the ALJ.

Respondent's Exception 6 is denied.

Exception 7: Compatibility

In Exception 7, the Respondent takes exception to paragraph 60. However, the exception does not appear to relate to the ALJ's actual findings. The ALJ states:

> 60. However, it was not disputed that the subject properties are not "in close proximity" to one of the four activity centers in the City. The City did not explain how the Plan Amendment is consistent with Policy LU3.11, except to state that the City could possibly designate the subject properties as a new activity center in the future.

Contrary to the Respondent's implication, paragraph 60 does not state that no new activity centers could be designated under the Comprehensive Plan; it does not conclude there is inconsistency with Policy LU3.11; and it does not state anything with regard to the weight any such inconsistency would be afforded in the ALJ's analysis. The

paragraph simply summarizes evidence deemed compelling as a finding of fact. T. 245, 254.

There is competent substantial evidence in the record to support the ALJ's finding of fact. The Commission cannot reweigh the evidence and reach different findings of fact than the ALJ. **Respondent's Exception 7 is denied.**

Exception 8: Cooperation/Coordination

In Exception 8, the Respondent takes exception to paragraph 72, disputing its evidentiary basis.

The ALJ states:

> 72. The effect of the Plan Amendment on hurricane evacuation times was not evaluated before the adoption of the Plan Amendment. The City did not engage in meaningful cooperation with state, regional and county agencies to maintain or reduce hurricane evacuation times. If the subject properties were developed at the maximum potential residential density or maximum potential hotel density allowed by the Plan Amendment, hurricane evacuation times would likely increase.

Specifically, the Respondent claims that the ALJ ignored guidelines in the Comprehensive Plan regarding what constitutes "meaningful cooperation" on evacuation times. At the outset, it is unclear that the Respondent is truly concerned with the ALJ's adherence to guidelines rather than simply unhappy with the ultimate conclusion. It is difficult to imagine a set of guidelines that could compel a single outcome. Nonetheless, given the discretion afforded to the fact-finder in assessing the credibility and persuasive value of evidence in the record, the Commission does not entertain questions over whether the ALJ ignored certain evidence in favor of other evidence. That is the job of the finder of fact.

The proper inquiry for the Commission relates only to the sufficiency of the evidence he ultimately relied upon in making the finding of fact. In that regard, this finding of fact is supported by evidence in the record. T. 219-221, 366-367.

There is competent substantial evidence in the record to support the ALJ's finding of fact. The Commission cannot reweigh the evidence and reach different findings of fact than the ALJ. **Respondent's Exception 8 is denied.**

Exceptions 9 and 10: Cooperation/Coordination

In Exceptions 9 and 10, the Respondent takes exception to paragraphs 73 and 74, disputing the evidentiary basis. Exception 10 attempts to target paragraph 74, but it lacks any apparent relationship to its text.

The ALJ states:

> 73. The Tampa Bay Regional Planning Council commented that public shelter capacity and evacuation clearance times should have been addressed in conjunction with the Plan Amendment. Pinellas County objected to the Plan Amendment, based on its belief that the Plan Amendment would increase hurricane evacuation times and that there is insufficient shelter capacity. FDOT commented on the Plan Amendment, stating that the addition of permanent residents was "ill-advised" based on the vulnerability of the subject properties to storm surge.
>
> 74. The City states that it will consider hurricane evacuation times during the review of development site plans. While consideration of hurricane evacuation issues is appropriate at the site plan review stage, the City must also consider hurricane evacuation issues when it adopts a plan amendment that affects land within the hurricane vulnerability zone.

In both exceptions, the City claims that it did, in fact, reach out to other governments for comments, and asserts that no further action was necessary to satisfy "meaningful cooperation." It believes it has no obligation to cooperate at all with another government that takes actions in an adverse and "disingenuous" manner. Yet these are all arguments

for the trier of fact. The Respondent invites the Commission to reweigh the evidence and reach different findings of fact than the ALJ, which it cannot do. **Respondent's Exceptions 9 and 10 are denied.**

Exception 11: Cooperation/Coordination

In Exception 11, the Respondent takes exception to paragraph 76, disputing its evidentiary basis.

The ALJ states:

> 76. Clearance times are not defined by, or solely affected by, the number of persons that reside in the CHHA. Clearance times are based on the number of persons evacuating and certainly include the first people to be evacuated – the people of Evacuation Zone A. The subject properties are within Evacuation Zone A. Similarly, emergency shelter capacity is not based solely on the number of persons evacuating from the CHHA.

There is evidence supporting this finding of fact. T. 230-232; 338. There is competent substantial evidence in the record to support the ALJ's finding of fact. The Commission cannot reweigh the evidence and reach different findings of fact than the ALJ. **Respondent's Exception 11 is denied.**

Exceptions 13-19: Conclusions of Law

In Exceptions 13-19, the Respondent takes exception to paragraphs 90-96, disputing the ALJ's findings and conclusions of law.

In paragraph 90, the ALJ states that "the City's lack of control...does not eliminate the City's duty to react appropriately to the existing circumstances that affect the safety and welfare of its citizens." This proposition is so basic to governance as to require no citation to authority here. However, Rule 9J-5.005 appears to be the most direct authority relied upon by the ALJ.

In paragraph 91, the ALJ determined that "the City did not react appropriately to the best available existing data regarding the...potential adverse effects of the Plan Amendment on hurricane clearance times and shelter capacity." The ALJ concluded that the Plan Amendment is inconsistent with Rule 9J-5.005(2).

In paragraph 92, the ALJ concluded that "the more persuasive evidence in the record support Petitioners' claim that it is not sound planning to allow over 600 new residents or over a thousand new transient (hotel) residents on Tierra Verde."

In paragraph 94, the ALJ concluded that the "Petitioners proved by a preponderance of the evidence that the Plan Amendment causes the City's Comprehensive Plan to be internally inconsistent." The four areas of inconsistency are: **FLUE Policy LU2.4**, for allowing higher intensity uses outside an activity center that are incompatible with surrounding uses; **FLUE Policy LU3.11**, for allowing high residential densities not in close proximity to an activity center; **Objective CM13**, because the City did not cooperate with other agencies to maintain or reduce hurricane evacuation times; and **Policy CM13.11**, for adversely affecting evacuation times. In its Exception 16, Respondent argues that Petitioners were required to prove there "would conclusively" be an adverse effect on evacuation times, but it fails to provide any supporting legal basis.

In paragraph 96, the ALJ, in addressing the City's contention that "CG" is the most appropriate classification for properties with existing commercial uses, cites to the evidence in the record (T. 647, 659-660) indicating the common usage of overlay districts in restricting otherwise allowed but problematic uses. This is less of a conclusion of law and more of a finding of fact regarding the City's approach to this Plan Amendment.

In sum, the Respondent contends in Exceptions 13-19 that paragraphs 91-96 should be rejected for lack of evidence or improper conclusions of law. However,

paragraphs 91-96 are based on competent, substantial evidence and are logical conclusions based on the preceding paragraphs. Moreover, the legal arguments raised in these exceptions are not as or more reasonable as the ALJ's respective conclusions of law.

Respondent's Exceptions 13, 14, 15, 16, 17, 18, and 19 are denied.

CONCLUSION

The Commission hereby adopts the ALJ's findings of fact and conclusions of law in the Recommended Order.

Upon review of the entire record, the Recommended Order, and after considering the exceptions and responses thereto, the Commission determines that the City of St. Petersburg's Comprehensive Plan Amendment is not "in compliance." In accordance with Section 163.3189(2)(b), Florida Statutes, the Commission directs the City of St. Petersburg to 1) rescind Ordinance 2009-689-L; and 2) provide a report to the Commission on the status of Ordinance 2009-689-L within 45 days of this Final Order.

Pursuant to Section 163.3184(11)(a), Florida Statutes, the Commission advises the City that a new amendment to the City's Comprehensive Plan designating the Land as Commercial General may be considered "in compliance" so long as such a plan amendment: (1) provides for overlay restrictions substantially similar to those currently applicable to the Land under the County's Comprehensive Plan; and (2) does not adversely impact hurricane evacuation times or emergency shelters in the surrounding areas.

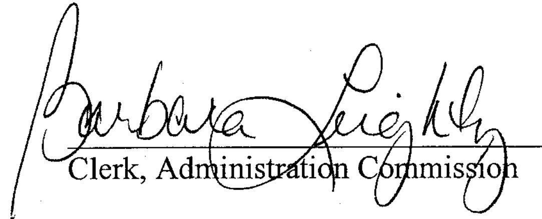
SANCTIONS

Pursuant to Section 163.3189(2)(b), Florida Statutes, the County may elect to make the Plan Amendment effective notwithstanding the finding of not in compliance stated in this Final Order. In the event the Commission determines the City has failed to timely rescind Ordinance 2009-689-L or otherwise Ordinance 2009-689-L takes or remains in effect, the City is subject to sanctions pursuant to section 163.3184(11), Florida Statutes. The Commission retains jurisdiction for the purpose of imposition of sanctions.

DONE AND ORDERED this 10th day of November, 2010.

JERRY L. MCDANIEL, Secretary
Administration Commission

FILED with the Clerk of the Administration Commission on this 10th day of November, 2010.



Clerk, Administration Commission

NOTICE OF RIGHTS

Any party to this Final Order has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Commission, Office of Policy and Budget, Executive Office of the Governor, the Capitol, Room 1801, Tallahassee, Florida 32399-0001; and by filing a copy of the Notice of Appeal, accompanied by the applicable filing fees, with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days of the day this Final Order is filed with the Clerk of the Commission.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the forgoing was delivered to the following persons by United States Mail, facsimile, electronic mail, or hand delivery this 10th day of November, 2010.

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