

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
Haydon Burns Building
605 Suwannee Street
Tallahassee, Florida

FILED
2009 APR 12 A 11:35
DIVISION OF
ADMINISTRATIVE
HEARINGS

WOODY DRAKE ADVERTISING, INC.,

Petitioner,

DOAH CASE NO. 09-5187

DOT CASE NO. 09-088

vs.

DEPARTMENT OF TRANSPORTATION,

Respondent.

FINAL ORDER

On August 3, 2009, the Department of Transportation (Department) issued a Notice of Intent to Revoke Sign Permit (Permit Numbers 2447 & 2457) for outdoor advertising signs with Tag Numbers AG329 and AG850, located on I-10, 0.239 miles east of Still Creek in Leon County, Florida. On August 28, 2009, Woody Drake Advertising, Inc. (Woody Drake) filed a petition for formal administrative hearing. On September 21, 2009, the petition and accompanying documents were filed with the Division of Administrative Hearings. The matter was assigned DOAH case number 09-5187.

An administrative hearing was held in Tallahassee, Florida, on November 18, 2009, before Robert S. Cohen, a duly appointed Administrative Law Judge. Appearances on behalf of the parties were as follows:

For Petitioner: Claude Ridley Walker, Esquire
Catherine B. Chapman, Esquire
Guilday, Tucker, Schwartz & Simpson, P.A.
1983 Centre Pointe Boulevard, Suite 200
Tallahassee, Florida 32308-7823

For Respondent: Kimberly Clark Menchion, Esquire
Department of Transportation
605 Suwannee Street, M.S. 58
Tallahassee, Florida 32399-0458

At the hearing, the Department called one witness, Lynn Holschuh and offered 5 exhibits into evidence, which were admitted as Respondents exhibits 1-5. Petitioner presented two witnesses, Jack M. Wainwright, Jr. and Walter Grimes, and offered 1 exhibit into evidence, which was admitted as Petitioner's exhibit 1. Joint Exhibit 1 was also admitted into evidence. The Recommended Order was entered on January 7, 2010. No exceptions were filed.

STATEMENT OF THE ISSUE

As stated in the Recommended Order, the issue presented was whether the Department's Notices of Intent to Revoke Sign Permit should be upheld.

FINDING OF FACT

The Administrative Law Judge's Findings of Fact in paragraphs 1 through 20 are supported by competent, substantial evidence and are adopted and incorporated as if fully set forth herein.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over the subject matter of and the parties to this proceeding pursuant to Chapters 120 and 479, Florida Statutes.

2. The Conclusions of Law in paragraphs 21 through 32 of the Recommended Order are fully supported in law, and are adopted and incorporated as if fully set forth herein.

Based upon the foregoing Finding of Fact and Conclusions of Law, it is

ORDERED that the Recommended Order is adopted in its entirety and incorporated herein by reference. It is further

ORDERED that the Notice of Intent to Revoke Sign Permit is dismissed.

DONE AND ORDERED this 7th day of April, 2010.



Stephanie C. Kopelousos
Secretary
Department of Transportation
Haydon Burns Building
605 Suwannee Street
Tallahassee, Florida 32399

FILED D.O.T. CLERK
2010 APR -7 AM 11:39

NOTICE OF RIGHT TO APPEAL

THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULES 9.110 AND 9.190, FLORIDA RULES OF APPELLATE PROCEDURE, BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.100(d), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL, ACCOMPANIED BY THE APPROPRIATE FILING FEE, AND WITH THE DEPARTMENT'S CLERK OF AGENCY PROCEEDINGS, HAYDON BURNS BUILDING, 605 SUWANNEE STREET, M.S. 58, TALLAHASSEE, FLORIDA 32399-0458, WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

Copies furnished to:

Kimberly Clark Menchion, Esquire
Assistant General Counsel
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Haydon Burns Building
605 Suwannee Street, M.S. 58
Tallahassee, Florida 32399-0458

Robert S. Cohen
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550

Lynn Holschuh
State Outdoor Advertising Administrator
Department of Transportation
Haydon Burns Building
605 Suwannee Street, M.S. 22
Tallahassee, Florida 32399-0422

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Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0458

STEPHANIE C. KOPELOUSOS
SECRETARY

DELEGATION OF AUTHORITY

I, Stephanie C. Kopelousos, Secretary of the Florida Department of Transportation, delegate to Kevin J. Thibault, as the Assistant Secretary for Engineering and Operations, Deborah L. Hunt, as the Assistant Secretary for Intermodal Systems Development, and William F. Thorp, as the Interim Assistant Secretary for Finance and Administration, the authority and responsibility to take action on my behalf at anytime during my absence from the Department headquarters in Tallahassee. I also rescind any prior delegations to the contrary.

Stephanie C. Kopelousos, Secretary
Florida Department of Transportation

May 28, 2008

Date