

STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS

DEPARTMENT OF COMMUNITY AFFAIRS,

Petitioner,

v.

Case No. 10-9224GM

CITY OF NEW SMYRNA BEACH,

Respondent.

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**FINAL ORDER**

An Administrative Law Judge of the Division of Administrative Hearings entered an Order Closing File and Relinquishing Jurisdiction 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 New Smyrna Beach's Comprehensive Plan Amendment 08-1 (Plan Amendment) is in compliance with the requirements of Chapter 163, Part II, Florida Statutes.

The City adopted the Plan Amendment on October 1, 2008, by Ordinance Nos. 16-07, 69-07, 70-07, 71-07, 18-08, and 101-07. The Department complied with and completed all general and specific statutory prerequisites and conditions required by § 163.3184, Florida Statutes, and found the provisions adopted by Ordinance No. 101-07 of the Plan Amendment to be not in compliance as set forth in its Statement of Intent dated September 2, 2010. The provisions of all the other ordinances were found to be "in compliance."

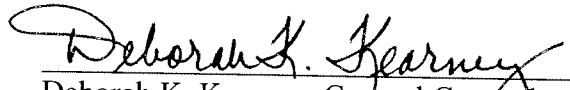
On April 12, 2011, the City adopted its EAR-based amendments which corrected the deficiencies in Ordinance No. 101-07. By Order in this case dated June 2, 2011, the issues raised

in this case were found moot, jurisdiction was relinquished to the Department, and the DOAH file was closed.

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 this day in Tallahassee, Florida.

  
Deborah K. Kearney, General Counsel  
DEPARTMENT OF COMMUNITY AFFAIRS  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

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.

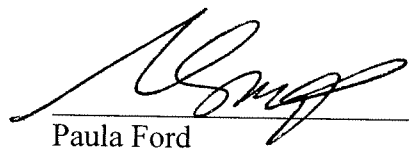
YOU **WAIVE** YOUR RIGHT TO JUDICIAL REVIEW IF THE NOTICE OF APPEAL IS NOT TIMELY FILED WITH THE AGENCY CLERK AND THE APPROPRIATE DISTRICT COURT OF APPEAL.

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 by U.S. Mail to each of the persons listed below on this 15<sup>th</sup> day of June, 2011.

*J. Ford*

  
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Paula Ford  
Agency Clerk

**By U.S. Mail**

The Honorable David M. Maloney  
Administrative Law Judge  
Division of Administrative Hearings  
The Desoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060

Linda Loomis Shelley  
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