

STATE OF FLORIDA  
DEPARTMENT OF ECONOMIC OPPORTUNITY

KAWAMA HOMEOWNERS  
ASSOCIATION, INC.,  
Petitioner,

CASE NO. 11-04546GM

v.

DEPARTMENT OF ECONOMIC  
OPPORTUNITY,  
Respondent,

and

MONROE COUNTY,  
Respondent.

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**FINAL ORDER**

An Administrative Law Judge of the Division of Administrative Hearings has entered an Order Relinquishing Jurisdiction to the Department of Economic Opportunity for final action. A copy of the Order is attached to this Final Order as Exhibit A.

**BACKGROUND**

This is a proceeding challenging the Department of Community Affairs' Final Order No. DCA 11-OR-149, finding Monroe County Ordinance No. 008-2011 consistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern. Section 380.0552, Florida Statutes.

## Final Order No. DEO-11-0039

Effective October 1, 2011, the state land planning agency duties, powers and functions of the Department of Community Affairs were transferred to the Department of Economic Opportunity.

The purpose of Ordinance No. 008-2011 is to amend or ratify the Tier Overlay District Designations for approximately three hundred-one parcels determined to have a Tier on the Tier Overlay District Map for Monroe County in accord with the Amended Final Order DCA 07-GM-166A. Only one parcel identified in Ordinance No. 008-2011, the Molasses Reef parcel, previously adopted by Final Order No. DCA 11-OR-149, was challenged by Petitioner Kawama Homeowners Association Inc.

Section 380.05(6), Florida Statutes provides that “[n]o proposed land development regulation within an area of critical state concern becomes effective under this subsection until the state land planning agency issues its final order or, if the final order is challenged, until the challenge to the order is resolved pursuant to chapter 120.”

Due to the uncertainty with respect to development rights of individual land owners whose properties were not subject to challenge, the Division of Administrative Hearings Relinquished Jurisdiction In Part to the Department to issue a final order for the remaining three hundred parcels, not including the Molasses Reef property. On November 9, 2011, the Department issued Partial Final Order No. DEO-11-0016 as to parcels of land described in Monroe County Ordinance 008-2011 for which no challenge was pending.

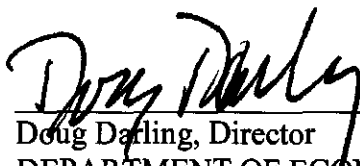
On November 13, 2011, Petitioner Kawama Homeowners Association Inc., filed a Notice of Voluntary Dismissal with respect to the Molasses Reef property. On November 15, 2011, the Administrative Law Judge issued an Order Relinquishing Jurisdiction and Closing File. Since the

Administrative Law Judge Relinquished Jurisdiction to the Department of Economic Opportunity to take final action, the Department is the appropriate agency to enter a Final Order. Section 380.05(6), Florida Statutes.

**ORDER**

WHEREFORE, it is ORDERED that the Monroe County Land Development Regulation identifying the revised Tier Designation for the Molasses Reef property (parcel ID number 000-90490-00000), adopted by Ordinance No. 008-2011 on May 4, 2011, is consistent with the Section 380.0552, Florida Statutes Principles for Guiding Development in the Florida Keys Area of Critical State Concern.

DONE AND ORDERED this day in Tallahassee, Florida.



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Doug Darling, Director  
DEPARTMENT OF ECONOMIC OPPORTUNITY  
407 East Madison Street MSC 110  
Tallahassee, Florida 32399-4128

**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, 407 EAST MADISON STREET MSC 110, TALLAHASSEE, FLORIDA 32399-4128, WITHIN 30 DAYS OF THE DAY THIS ORDER IS FILED WITH THE AGENCY CLERK. THE NOTICE OF APPEAL MUST BE

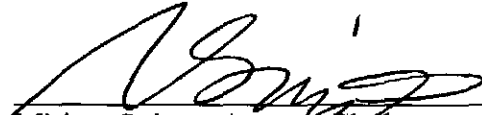
SUBSTANTIALLY IN THE FORM PRESCRIBED BY FLORIDA RULE OF APPELLATE PROCEDURE 9.900(a). A COPY OF THE NOTICE OF APPEAL MUST BE FILED WITH THE APPROPRIATE DISTRICT COURT OF APPEAL AND MUST BE ACCOMPANIED BY THE FILING FEE SPECIFIED IN SECTION 35.22(3), FLORIDA STATUTES.

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 Economic Opportunity, and that true and correct copies have been furnished to the persons listed below in the manner described, on this 15<sup>th</sup> day of Dec November 2011.

  
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Miriam Snipes, Agency Clerk  
DEPARTMENT OF ECONOMIC OPPORTUNITY  
407 East Madison Street MSC 110  
Tallahassee, Florida 32399-4128

By U.S. Mail:

Marcie Oppenheimer Nolan, Esq.  
Becker & Poliakoff, P.A.  
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Fort Lauderdale, FL. 32314

Derek V. Howard, Esq.  
Assistant County Attorney  
Monroe County's Attorney's Office  
1111 12<sup>th</sup> Street, Suite 408  
Key West, FL 33041

By Filing with DOAH:

The Honorable Bram D. E. Canter  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, FL 32399-1550