STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY

STEPHEN DIBBS,

Petitioner,

v. DOAH CASE NO. 12-1850GM

HILLSBOROUGH COUNTY,

Respondent.

FINAL ORDER

This matter was considered by the Executive Director of the Department of Economic Opportunity ("Department") following receipt of a Recommended Order issued by an Administrative Law Judge ("ALJ") of the Division of Administrative Hearings ("DOAH").

BACKGROUND

This is a proceeding to determine whether Comprehensive Plan Amendments No. 12-01 and 12-03 adopted by Hillsborough County on May 17, 2012 (the "Plan Amendments"), are in compliance as defined in section 163.3184(1)(b), Fla. Stat.[1] The Plan Amendments amend portions of the Keystone-Odessa Community Plan ("KOCP") in the Livable Communities Element and portions of the Transportation Element.

ROLE OF THE DEPARTMENT

The Plan Amendments were adopted under the expedited state review process in section 163.3184(3), Fla. Stat., and were challenged by Stephen Dibbs ("Petitioner") in a petition timely filed with DOAH. The Department was not a party to the proceeding. Since the ALJ's Recommended Order recommends that the Plan Amendments be found in compliance, the ALJ

[1] All references to the Florida Statutes are to the 2012 edition.

submitted the Recommended Order to the Department pursuant to section 163.3184(5)(e), Fla. Stat. The Executive Director of the Department must either determine that the Plan Amendments are in compliance and enter a Final Order to that effect, or determine that the Plan Amendments are not in compliance and submit the Recommended Order to the Administration Commission for final agency action.

STANDARD OF REVIEW OF RECOMMENDED ORDER

The Administrative Procedure Act contemplates that an agency will adopt the ALJ's Recommended Order as the agency's Final Order in most proceedings. To this end, the agency has been granted only limited authority to reject or modify findings of fact in a recommended order.

The agency may not reject or modify the findings of fact in a recommended order unless the agency first determines from a review of the entire record, and states with particularity in its 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. Rejection or modification of conclusions of law may not form the basis for rejection or modification of findings of fact. Id.

Absent a demonstration that the underlying administrative proceeding departed from essential requirements of law, "[a]n ALJ's findings cannot be rejected unless there is no competent, substantial evidence from which the findings could reasonably be inferred." Prysi v. Department of Health, 823 So. 2d 823, 825 (Fla. 1st DCA 2002) (citations omitted). In determining whether challenged findings of fact are supported by the record in accord with this standard, the agency may not reweigh the evidence or judge the credibility of witnesses, both tasks being within the sole province of the ALJ as the finder of fact. See Heifetz v. Department

of Business Regulation, 475 So. 2d 1277, 1281-1283 (Fla. 1st DCA 1985). If the evidence presented in an administrative hearing supports two inconsistent findings, it is the ALJ's role to decide the issue one way or the other. Heifetz at 1281.

The Administrative Procedure Act also specifies the manner in which the agency is to address conclusions of law in a recommended order. The agency in its final order may reject or modify the conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction. When rejecting or modifying such conclusion of law or interpretation of an administrative rule, the agency must state with particularity its reasons for rejecting or modifying such conclusion of law or interpretation of an administrative rule and must make a finding that its substituted conclusion of law or interpretation of an administrative rule is as reasonable or more reasonable than that which was rejected or modified. §120.57(1)(l), Fla. Stat. See also, DeWitt v. School Board of Sarasota County, 799 So. 2d 322 (Fla. 2nd DCA 2001).

The label assigned to a statement is not dispositive as to whether it is a finding of fact or a conclusion of law. Kinney v. Dept. of State, 501 So. 2d 1277 (Fla. 5th DCA 1987), and Goin v. Comm. on Ethics, 658 So. 2d 1131 (Fla. 1st DCA 1995). Conclusions of law labeled as findings of fact, and findings of fact labeled as conclusions, will be considered as a conclusion or finding based upon the statement itself and not the label assigned.

RULINGS ON EXCEPTIONS

Rulings on Petitioner's Exceptions

A. Scope of Proceedings – Conclusion of Law 49.

In Exception A, Petitioner contends that by extending the planning horizon for the KOCP, the County did not merely update the community plan but readopted the entire

community plan. Therefore, according to Petitioner, the ALJ erred as a matter of law in limiting the scope of the proceeding to the amended text instead of allowing Petitioner to challenge portions of the KOCP that were not changed by the Plan Amendments.

The ALJ articulated his reasons for limiting the proceedings to the amended text in the Plan Amendments in an interlocutory order entered on July 2, 2012. That ruling was incorporated into the Recommended Order as conclusion of law 49:

> A well-established principle in a compliance proceeding is that once a plan provision is determined to be in compliance, it cannot be collaterally attacked in a subsequent proceeding. See Schember v. Dep't of Cmty. Affairs, Case No. 00-2066GM at pp. 78-80 (Fla. DOAH July 16, 2001), adopted, Case No. DCA01-GM-167 (Fla. DCA Oct. 31, 2001); Order on Motion, July 2, 2012.

The ALJ correctly noted that the state land planning agency has consistently followed the principle that existing plan provisions that were previously determined to be in compliance and that are not amended are not subject to review or challenge in a subsequent plan amendment proceeding.[2]

The Department agrees with the ALJ's conclusion of law 49. The fact that the Plan Amendments include the extension of the planning timeframe for the KOCP does not justify retreating from the long-accepted principle limiting the scope of review in plan amendment cases. The Department notes that here, the policy directive of the Hillsborough County Board of

[2] The one exception to this general principle occurred where the local government amended its comprehensive plan to remove a future land use map overlay which resulted in increased land use capacity throughout the local government's jurisdiction and constituted such a fundamental revision of the future land use map that it was subject to further review. Department of Community Affairs v. Lee County, Case No. 95-0098GM (Fla. DOAH Jan. 31, 1996), adopted, 1996 Fla. Env. Lexis 101 (Fla. Admin. Comm. July 25, 1996). In that case, the state land planning agency found the originally-adopted future land use map to be not in compliance. The County adopted the overlay to cure the alleged deficiencies. The removal of the overlay meant that the future land use map again contained the deficiencies that had previously been determined to be not in compliance.

County Commissioners was to update community plans, not readopt them, every ten years. (Finding of fact 5; T. 401). Accordingly, the County was not looking at a wholesale rewrite of the KOCP. (T. 386).

A substituted conclusion of law would not be as reasonable as, or more reasonable than, conclusion of law 49 in the Recommended Order. §120.57(1)(l), Fla. Stat. Accordingly, Petitioner's Exception A is DENIED.

B. "Aspirational" Policies – Findings of Fact 18 and 27 and Conclusion of Law 47.

In Exception B, Petitioner objects to the ALJ's references in findings of fact 18 and 27 and conclusion of law 47 to "aspirational" provisions in the Plan Amendments. The basis for Petitioner's exception is that a decision whether to reserve right-of-way for expansion of Gunn Highway is not aspirational, and that the Transportation Element and the KOCP are not aspirational.

1. Finding of Fact 18.

The Plan Amendments adopt the following amendment to a provision in the KOCP related to community character (quoted in finding of fact 16 of the Recommended Order):

> The Keystone-Odessa community desires to retain its ~~predominant~~ rural residential character as an area of lakes, agricultural activities, and homes built on varied lot sizes and in a scattered development pattern. Rural is based on the County's Future Land Use Element, Urban Service Area boundary objectives and policies. (underlined language is added; struck through language is deleted).

In relevant part, finding of fact 18 addressed Petitioner's allegation that the above provision was required to be coordinated with the plans of adjacent local governments before adoption pursuant to section 163.3177(4)(a), Fla. Stat. In rejecting Petitioner's position, the ALJ found that "aspirational amendments that simply express the desire of a community and nothing more do not require review and coordination by [neighboring] Pasco County before being

adopted." Finding of fact 18 does not characterize the decision to remove Gunn Highway from the County's corridor preservation ordinance, the Transportation Element, or the KOCP as a whole as aspirational provisions of the County's comprehensive plan, which is the basis for Petitioner's exception. The ALJ addressed only the one portion of the Plan Amendments quoted above.

In common usage, an aspiration is a desire to achieve something or the goal or objective of that desire. See Merriam-Webster, Webster's II New College Dictionary (1999). Since by its plain language the above-quoted provision expresses a community desire, it was fairly characterized by the ALJ as aspirational.

Petitioner's Exception B as it relates to finding of fact 18 is DENIED.

2. Finding of Fact 27.

One component of the Plan Amendments was the addition of the following statement to the transportation section of the KOCP:

> The community supports the expansion of the Suncoast Parkway to 6 lanes (3 in each direction) to relieve traffic through the Keystone-Odessa Community Plan area.

In finding of fact 25 (to which Petitioner does not take exception), the ALJ found that this statement is "simply a statement of support by the community for the widening of the toll road if that project is ever considered in the future." In finding of fact 27, the ALJ reiterated his previous finding that the above-quoted language does not mandate anything and found that "Petitioner has failed to prove to the exclusion of fair debate that the aspirational language is not in compliance for the reasons alleged." The ALJ did not characterize the decision to remove Gunn Highway from the County's corridor preservation ordinance, the Transportation Element, or the KOCP as a whole as aspirational provisions of the County's comprehensive plan, which is

the basis of Petitioner's exception. Rather, in finding of fact 27, he addressed only the one portion of the Plan Amendments quoted above.

Again, an aspiration is a desire to achieve something or the goal or objective of that desire. See Merriam-Webster, Webster's Ninth New Collegiate Dictionary (1984). Community support for a road project if it is considered in the future was fairly characterized by the ALJ as aspirational.

Petitioner's Exception B as it relates to finding of fact 27 is DENIED.

3. Conclusion of Law 47.

Conclusion of law 47 provides:

> Aspirational amendments require less data and analyses than might otherwise be required. Indian Trail Improve. Dist. v. Dep't of Cmty. Affairs, 946 So. 2d 640, 641 (Fla. 4th DCA 2007). Therefore, the revisions in Plan Amendment 12-01 which simply express support for a particular vision or strategy and require no immediate action by the County do not need to be supported by the extensive data and analysis suggested by Petitioner. Unless some formal action is taken by the County to implement these visions, it is unlikely that they create an internal inconsistency with other portions of the Plan.

Read in the context of the Recommended Order as a whole, conclusion of law 47 does not characterize the decision to remove Gunn Highway from the County's corridor preservation ordinance, the Transportation Element, or the KOCP as aspirational provisions of the County's comprehensive plan, which is the basis of Petitioner's exception. Rather, conclusion of law 47 refers to those specific provisions in the Plan Amendments that the ALJ characterized as aspirational in the findings of fact. For the reasons expressed in the Department's above rulings related to findings of fact 18 and 27, a substituted conclusion of law would not be as reasonable as, or more reasonable than, conclusion of law 49 in the Recommended Order. §120.57(1)(l), Fla. Stat.

Petitioner's Exception B as it relates to conclusion of law 47 is DENIED.

C. Internal Consistency.

In Exception C, Petitioner contends, in relevant part:

> Judge Alexander failed to address whether several of the amendments were internally consistent with the Comprehensive Plan. He justified this by claiming that Petitioner only challenged these portions as not in compliance with subsections (4)(a) and (6)(a). (Rec. Order ¶¶ 18 & 22).... It was error for Judge Alexander to refuse to even address it.

Petitioner does not identify which internal consistency issues he claims the ALJ failed to address or identify the specific findings of fact or conclusions of law with which he takes exception. The ALJ expressly addressed internal consistency issues in findings of fact 32, 38, and 40, and conclusion of law 47. Finding of fact 42, not challenged by Petitioner, states: "All other arguments not specifically addressed in this Recommended Order have been considered and rejected." Rather than failing to address the internal consistency issues that Petitioner thinks should have been addressed, the Recommended Order plainly says those issues were considered and were rejected. The ALJ just did not elaborate on his rationale for rejecting them.

Petitioner's Exception C is DENIED.

D. Consistency with Section 163.3177(6)(a), Fla. Stat. – Conclusion of Law 48.

In his Exception D, Petitioner argues that the ALJ's conclusion of law in paragraph 48 of the Recommended Order that the challenged amendments were not required to comply with section 163.3177(6)(a), Fla. Stat., governing the future land use element is an incorrect conclusion of law.

Local governments are required to adopt certain mandatory elements, including the future land use element, and are also authorized to adopt optional elements. Hillsborough County elected to amend its comprehensive plan to adopt the optional Livable Communities Element and

move the community plans from the future land use element to the optional element. That action was previously determined to be in compliance and is not at issue in this proceeding. In conclusion of law 48, the ALJ concluded, and the Department agrees, that the statutory requirements that expressly apply to the future land use element do not apply to the Livable Communities optional element.

A substituted conclusion of law would not be as reasonable as, or more reasonable than, the ALJ's conclusion of law 48. §120.57(1)(l), Fla. Stat. Accordingly, Petitioner's Exception D is DENIED.

E. Fairly Debatable.

i. Gunn Highway – Finding of Fact 41 and Conclusion of Law 50.

Petitioner takes exception to the ALJ's finding that CPA 12-03, which deletes Gunn Highway from the County's Corridor Preservation Ordinance in the Transportation Element, is fairly debatable. That finding is reflected in finding of fact 41 ("In summary, Petitioner has failed to prove to the exclusion of fair debate that the deletion in Plan Amendment 12-03 is not in compliance.") and in conclusion of law 50 ("The evidence supports a conclusion that Petitioner has failed to prove beyond fair debate that the plan amendments are not in compliance.").

Finding of fact 41 is supported by competent substantial evidence in the record as described in findings of fact 13, 36, and 38, to which Petitioner does not expressly take exception.

Petitioner argues that the County must have a plan for correcting deficiencies and meeting the needs of the transportation system before it can delete Gunn Highway from the Corridor Preservation Ordinance, citing section 163.3177(6)(b)1.e, Fla. Stat. That statute requires that the transportation element address "how the local government will correct existing

facility deficiencies, meet the identified needs of the projected transportation system, and advance the purpose of this paragraph and the other elements of the comprehensive plan." The Department agrees with the ALJ's rejection of that argument (finding of fact 38). The statute applies to the Transportation Element, not individual plan amendments. Whether the Transportation Element is in compliance with section 163.3177(6)(b)1.e., Fla. Stat., is not at issue in this proceeding.

In reviewing an ALJ's recommended order, an agency's ability to reject conclusions of law is limited by section 120.57(1)(l), Fla. Stat., to issues within the agency's substantive jurisdiction. As the statutorily designated state land planning agency (section 163.3164(43), Fla. Stat.), the Department has substantive jurisdiction and expertise over land use planning issues. The determination of whether the Plan Amendments are fairly debatable requires the application of a legal concept typically resolved by judicial or quasi-judicial officers. The application of that legal concept is not within the Department's substantive jurisdiction. Deep Lagoon Boat Club, Ltd. v. Sheridan, 784 So.2d 1140, 1141-1142 (Fla. 2nd DCA 2001) (ALJ's decision not to apply collateral estoppel or res judicata requires the application of a legal concept typically resolved by judicial or quasi-judicial officers and is not within the substantive jurisdiction of the Secretary of the Department of Environmental Regulation). Therefore, the Department cannot reject the ALJ's conclusion of law 50 that Petitioner failed to prove beyond fair debate that the Plan Amendments are not in compliance.

Petitioner's Exception E.i. related to Gunn Highway is DENIED.

ii. Striking the Word "Predominant."

The Plan Amendments include the following amendments related to the KOCP (quoted in finding of fact 16 of the Recommended Order):

> The Keystone-Odessa community desires to retain its ~~predominant~~ rural residential character as an area of lakes, agricultural activities, and homes built on varied lot sizes and in a scattered development pattern. Rural is based on the County's Future Land Use Element, Urban Service Area boundary objectives and policies. (underlined language is added; struck through language is deleted).

Petitioner takes exception to the ALJ's conclusion that removal of the word "predominant" in the above provision is fairly debatable. Petitioner does not identify the specific finding of fact or conclusion of law to which he takes exception. However, in finding of fact 41 the ALJ found: "In summary, Petitioner has failed to prove to the exclusion of fair debate that the deletion in Plan Amendment 12-03 is not in compliance." In conclusion of law 50, the ALJ concluded that "The evidence supports a conclusion that Petitioner has failed to prove beyond fair debate that the plan amendments are not in compliance."

The County acknowledges that approximately 8-11% of developable land in the KOCP area is inside the urban service area and is therefore not rural under the Hillsborough County comprehensive plan. (T. 451-452). However, the County elected to define "rural" in the KOCP in reliance on existing provisions in the Future Land Use Element. In finding of fact 17, the ALJ found:

> In striking the word "predominant," however, the County simply deferred to the standards found in the urban service area boundary objectives and policies of the FLUE, cited in the second sentence of the paragraph. These broad guidelines provide that if land is in the urban service area, the land is considered urban, while land outside the urban service area is considered rural. In distinguishing between rural and urban areas, the FLUE recognizes that within the rural area, there may be small suburban enclaves and other non-rural properties that predate the KOCP and which are located in the urban service area. To make the first sentence more consistent with the Plan, the County removed the word "predominant," as being unnecessary.

Finding of fact 17 is supported by competent substantial evidence in the record (T. 387, 432-433).

The amended provision quoted above is in the portion of the KOCP labeled Rural Residential Community Character. (Respondent's Ex. 1, p. 16). The Department notes that the paragraph in the KOCP immediately following the above-quoted amended language contains pre-existing text that says rural guidelines will be developed to implement the KOCP in order to "retain the rural residential character" of the KOCP planning area. Other pre-existing provisions in the KOCP that are not at issue in this proceeding also refer to the rural character of the area. The first sentence in the KOCP Vision statement is: "The Keystone-Odessa community will continue to be a rural community, embracing its agricultural past." The KOPC section labeled "Residential" says that the "established rural pattern of residential development will be continued." (Respondent's Ex. 1, pp. 16, 17). The removal of the word "predominant" in the Plan Amendments is internally consistent with these pre-existing comprehensive plan provisions.

As explained above, the Department has no substantive jurisdiction over the ALJ's conclusion of law 50 that Petitioner failed to prove beyond fair debate that the Plan Amendments are not in compliance and, therefore, cannot reject or modify that conclusion.

Petitioner's Exception E.ii. is DENIED.

F. Rejection of Expert Testimony.

Gunn Highway.

Petitioner asserts that "Judge Alexander did not have the right to reject Petitioner's unrefuted expert testimony" that there are serious safety concerns on Gunn Highway and it should be maintained in the County's corridor preservation table. Petitioner does not identify any particular finding of fact or conclusion of law to which he takes exception.

The Recommended Order did not expressly accept or reject the testimony of Petitioner's expert. Gunn Highway was removed from the Corridor Protection Ordinance because the KOCP

says that Gunn Highway cannot be widened because of social, economic, policy and environmental constraints. (Finding of fact 36; Respondent's Ex. 1, p. 22). After considering the evidence, the ALJ found that removal of Gunn Highway from the corridor preservation plan means that if the County decides at some future time to enhance Gunn Highway and additional right-of-way is needed, the cost of making the improvement will likely rise. (Finding of fact 13). He further found that "Given the existing constraint on widening Gunn Highway, the effect of the amendment is simply to make the Transportation Element consistent with the KOCP, a requirement under section 163.3177(2)."[3] (Finding of fact 38).

Based on the Recommended Order, it can be inferred that the ALJ considered Petitioner's expert's testimony but did not assign it the weight Petitioner thinks it should have had. Petitioner has not demonstrated that the findings of fact in the Recommended Order are not supported by competent substantial evidence in the record. Under that circumstance, in reviewing the Recommended Order, the Department cannot reweigh the evidence, that task being within the sole province of the ALJ as the finder of fact. Heifetz v. Department of Business Regulation, 475 So. 2d 1277, 1281-1283 (Fla. 1st DCA 1985).

Demographic Data - KOCP

Petitioner also asserts that the ALJ improperly rejected the unrefuted testimony of his demographer that the data relied on by the County for amendments to the KOCP was not professionally acceptable. Again, Petitioner does not identify any particular finding of fact or conclusion of law to which he takes exception but is apparently referring to the characterization of the KOCP area as rural residential.

[3] Section 163.3177(2), Fla. Stat., requires that the elements of the comprehensive plan be consistent.

Population projections were one component of the data reviewed by the County Planning Commission staff in updating the KOCP. That data also included an analysis of land use patterns, a review of zoning actions in the KOCP area, building activity, socioeconomic data, employment projections, school enrollment projections, and income. (Respondent's Ex. 3, p. 14). Staff were looking for benchmarks that showed a major shift in actual development patterns or population growth within the KOCP boundary. (T. 384-386, 411, 423-424). The County also considered as data the desires of the community developed during the KOCP update process. Petitioner's demographer acknowledged that his criticisms or critiques largely pertain to the KOCP as a whole because he thinks the entire plan is open to criticism. (T. 301-302).

The Recommended Order did not expressly accept or reject the expert testimony of Petitioner's demographer. Rather, a fair reading of the Recommended Order suggests that the ALJ did not assign that testimony the weight Petitioner thinks it should have. Petitioner has not demonstrated that the ALJ's findings of fact are not supported by competent substantial evidence in the record. Under that circumstance, as noted above, the weight to be given to the testimony and evidence is the sole province of the ALJ as the finder of fact. Heifetz v. Department of Bus. Reg., 475 So. 2d 1277, 1281-1283 (Fla. 1st DCA 1985).

Petitioner's Exception F is DENIED.

Ruling on Hillsborough County's Exceptions

Hillsborough County's exceptions consist of strike-through and underlined versions of portions of findings of fact 5, 6, 7, and 8 in the Recommended Order. Some of the exceptions propose deletions of sentences within the enumerated findings of fact, one includes stylistic changes that do not change the meaning of the sentence or phrase, and one proposes supplementing finding of fact 6. The County's exceptions do not contain any narrative

explaining why the County thinks the modifications should be made, and do not include any citations to the record to support the proposed modifications.

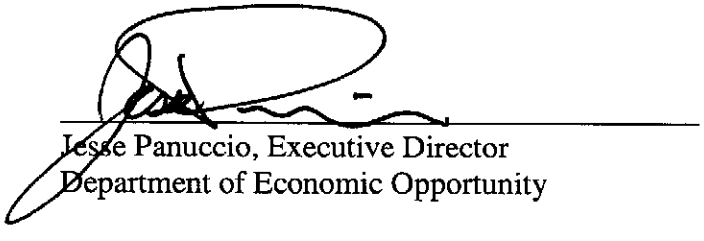
It is the responsibility of the party filing exceptions, not the agency, to explain its position and provide the statutory grounds that support the party's position. Section 120.57(1)(k), Fla. Stat., expressly provides that an agency is not required to rule on exceptions that do not identify the legal basis for the exception, or that do not include appropriate and specific citations to the record. The County's exceptions do not contain either.

Based on the foregoing, the County's exceptions to portions of findings of fact 5, 6, 7, and 8 in the Recommended Order are DENIED.

ORDER

IT IS ORDERED as follows:

The Department adopts the Recommended Order, a copy of which is attached hereto as Exhibit A and incorporated herein, as the Department's Final Order and determines that Hillsborough County Comprehensive Plan Amendments No. 12-01 and 12-03 adopted on May 17, 2012, are in compliance as defined in section 163.3184(1)(b), Fla. Stat.



Jesse Panuccio, Executive Director
Department of Economic Opportunity

NOTICE OF RIGHT TO APPEAL

THIS FINAL ORDER CONSTITUTES FINAL AGENCY ACTION UNDER CHAPTER 120, FLORIDA STATUTES. A PARTY WHO IS ADVERSELY AFFECTED BY FINAL AGENCY ACTION IS ENTITLED TO JUDICIAL REVIEW IN ACCORDANCE WITH 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 FINAL AGENCY ACTION, A NOTICE OF APPEAL MUST BE FILED WITH THE DEPARTMENT'S AGENCY CLERK, 107 EAST MADISON STREET, CALDWELL BUILDING, MSC 110, TALLAHASSEE, FLORIDA 32399-4128, WITHIN THIRTY CALENDAR (30) DAYS AFTER THE DATE THIS FINAL AGENCY ACTION IS FILED WITH THE AGENCY CLERK, AS INDICATED BELOW. 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 ALSO BE FILED WITH THE DISTRICT COURT OF APPEAL AND MUST BE ACCOMPANIED BY THE FILING FEE SPECIFIED IN SECTION 35.22(3), FLORIDA STATUTES.

AN ADVERSELY AFFECTED PARTY WAIVES ITS RIGHT TO JUDICIAL REVIEW IF THE NOTICE OF APPEAL IS NOT TIMELY FILED WITH BOTH THE DEPARTMENT'S AGENCY CLERK AND THE APPROPRIATE DISTRICT COURT OF APPEAL.

NOTICE OF FILING AND SERVICE

I HEREBY CERTIFY that the above document was filed with the Department's designated Agency Clerk and that true and correct copies were furnished to the persons listed below in the manner described on the 22nd day of July, 2013.

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