

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

CSX TRANSPORTATION, INC.,

Petitioner,
vs.

DOAH Case No. 15-6500
DOT Case No. 15-084

DEPARTMENT OF TRANSPORTATION,

Respondent,
and

NEW PORT TAMPA BAY CDD HOLDINGS, LLC, and
NEW PORT TAMPA BAY CDD,

Intervenors.

FINAL ORDER

On September 30, 2015, the Department of Transportation (“Department”) issued a Notice of Intent to Permit the City of Tampa to open a new public highway-rail grade crossing at the corner of Tyson Avenue and Bridge Street in Hillsborough County, Florida, over a rail spur owned and operated by CSX Transportation, Inc. (“CSX”). CSX filed a Petition for Formal Administrative Hearing and the matter was referred to the Division of Administrative Hearings. New Port Tampa Bay CCD Holdings, LLC and New Port Tampa Bay CDD subsequently intervened in the case. Pursuant to notice, a hearing was conducted before the assigned Administrative Law Judge (ALJ), Linzie F. Bogan, on February 23 and 24, 2016. The ALJ entered a Recommended Order on April 22, 2016, recommending the Department enter a final order approving the new opening.

A copy of the Recommended Order is attached. No exceptions were filed.

STATEMENT OF THE ISSUE

As stated in the Recommended Order, the issue presented was whether the opening of a public highway-rail grade crossing at the proposed intersection of Tyson Avenue and Bridge Street in Hillsborough County, Florida, meets the criteria set forth in Florida Administrative Code Rule 14-57.012(2)(a)(1-3).

FINDING OF FACT

The Findings of Fact in paragraphs 1 through 20 of the Recommended Order are supported by competent, substantial evidence and are adopted and incorporated as if fully set forth herein.


CONCLUSIONS OF LAW

The Conclusions of Law in paragraphs 21 through 31 of the Recommended Order are fully supported in law, and are adopted and incorporated as if fully set forth herein.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Department approves the opening of a public highway-rail grade crossing at the intersection of Tyson Avenue and Bridge Street in Hillsborough County, Florida in accordance with the September 30, 2015 Notice of Intent.

DONE AND ORDERED this 18th day of May, 2016.



JIM BOXOLD
Secretary
Department of Transportation
Haydon Burns Building
605 Suwannee Street
Tallahassee, Florida 32399

FILED D.O.T. CLERK
2016 MAY 18 AM 8:04

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:

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Administrative Law Judge
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