

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

LAMAR EAST FLORIDA,

DOAH CASE NO.: 19-5421

Petitioner,

DOT CASE NO.: 18-048

vs.

DEPARTMENT OF TRANSPORTATION,

Respondent.

_____ /

FINAL ORDER

On June 14, 2018, Lamar East Florida (Lamar), initiated this proceeding by filing a Request for an Administrative Hearing. The request was filed in response to a Notice of Intent to Revoke Sign Permit for Violation (Notice), issued by Respondent, Florida Department of Transportation (Department). On October 9, 2019, this matter was referred to the Florida Division of Administrative Hearings. Before the matter could be heard, the parties entered into the attached Stipulation of Settlement, resolving all issues.

FINDINGS OF FACT

1. On May 11, 2018, the Department issued Lamar a Notice of Intent to Revoke Sign Permit for Violation (Notice Number 55599) regarding outdoor advertising permit 19129, tag number BY738, for a nonconforming sign that was no longer substantially the same as it was on the date on which it became nonconforming pursuant to 14-10.007(1), Florida Administrative Code.
2. On June 14, 2018, the Department received a Request for an Administrative Hearing challenging the Department's Notice. The Request was assigned DOT Case No. 18-048.

3. On October 9, 2019, the Department referred this matter to the Florida Division of Administrative Hearings.

4. The Department and Lamar have agreed to amicably resolve the issue without the necessity of a hearing, under the terms set forth in the Stipulation of Settlement.

CONCLUSIONS OF LAW

The Department has jurisdiction over the subject matter of and the parties to this proceeding pursuant to Chapters 120 and 479, Florida Statutes, and Chapters 14-10 and 28-106, Florida Administrative Code.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is

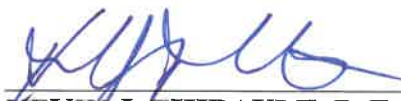
ORDERED that Lamar may continue to maintain the sign until December 31, 2019 and agrees to remove the sign at its own expense. It is further

ORDERED that if Lamar does not remove the sign by December 31, 2019, the Department will remove the sign and will assess all costs of removal against Lamar pursuant to section 479.10, Florida Statutes. It is further

ORDERED that Lamar's request for an administrative hearing is **DISMISSED**. It is further

ORDERED that the attached Stipulation of Settlement is incorporated into this Order by reference.

DONE AND ORDERED this 30th day of October, 2019.



KEVIN J. THIBAUT, P. E.
Secretary
Department of Transportation
Haydon Burns Building
605 Suwannee Street
Tallahassee, Florida 32399

FILED
2019 OCT 30 PM 3:00
CLERK

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 9.110(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 30 DAYS OF RENDITION OF THIS ORDER.

Copies furnished to:

David Tropin, Esq.
Assistant General Counsel
Department of Transportation
Haydon Burns Building
605 Suwannee Street, M.S. 58
Tallahassee, Florida 32399

Michael Green
Outdoor Advertising Administrator
Department of Transportation
Haydon Burns Building
605 Suwannee Street, M.S. 22
Tallahassee, Florida 32399-0450

Peter Costanza
Lamar Daytona Beach
1140 North Williamson Blvd., Suite 100
Daytona Beach, Florida 32114

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vs.

DEPARTMENT OF TRANSPORTATION,

Respondent.

STIPULATION OF SETTLEMENT

Lamar East Florida ("Lamar") and the Florida Department of Transportation ("Department"), together referred to as "Parties," enter into this Stipulation of Settlement ("Stipulation") and agree as follows:

WHEREAS, Lamar is the permit holder for a sign with tag number BY738 and permit number 19129, located in Volusia County, Florida (Sign).

WHEREAS, on May 11, 2018, the Department issued a Notice of Intent to Revoke Sign Permit for Violation, notice number 55599 (Notice) for the Sign. The Department asserts that the Sign is nonconforming as it is no longer substantially the same as it was changed from an eight pole metal frame to a three pole wood frame.

WHEREAS, on June 14, 2018, Lamar requested a hearing challenging the Department's Notice.

WHEREAS, on September 7, 2018, the Department issued an Amended Notice of Intent to Revoke Sign Permit for Violation, Notice 55599 Amended, for the Sign. The Department

asserts, in addition to the original basis for revocation, that the Sign had been substantially changed and in violation of section 14-10.007, Florida Administrative Code. The Department further asserted that all of the support poles of the structure were changed from metal to wood. Also, the sign was changed from an eight pole metal frame structure to a three pole wood structure.

WHEREAS, on September 21, 2018, Lamar filed an Amended Petition requesting a hearing challenging the Department's Amended Notice.

WHEREAS, on October 9, 2019, this matter was referred to the Florida Division of Administrative Hearings.

WHEREAS, the Department and Lamar, have agreed to amicably resolve this issue without the necessity of a hearing, under the terms set forth in this Stipulation of Settlement.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The provisions of the foregoing whereas clauses are incorporated in and made a part of this Stipulation.
2. Lamar may continue to maintain the Sign until December 31, 2019 and agrees to remove the Sign at its own expense. If the Sign is not removed by December 31, 2019, the Department will remove the Sign and will assess all costs of removal against Lamar pursuant to section 479.10, Florida Statutes.
3. As of December 31, 2019, Lamar's permit for the Sign will be revoked.
4. Lamar waives its right to an administrative hearing on the matters contained in its request for hearing.
5. Nothing in this Stipulation prevents the Department from taking all action available under Florida law if a new violation involving the Sign occurs.
6. Each Party shall bear its own costs and attorney's fees in this proceeding.

7. Lamar, for itself and its attorneys, administrators, heirs, and assigns, unconditionally releases and forever discharges the State of Florida and the Department and its Secretary, agents, employees, representatives, insurers, and attorneys from any and all charges, complaints, claims, liabilities, demands, actions, causes of actions, suits, damages, losses, and expenses of any nature, including attorney's fees and costs, whether known or unknown, whatsoever arising from any or all of the facts or circumstances which give rise to, or related to this issue in any manner.

8. Any failure of any party to insist upon the strict performance of any terms or provisions hereof shall not be deemed to be a waiver of any of the terms and provisions thereof.

9. This Stipulation is contingent upon the approval of the Secretary of the Department of Transportation by Final Order. Until such Final Order is received, the Department incurs no liability or obligation whatsoever pursuant to this Stipulation.

IN WITNESS THEREOF, the parties hereto have executed the foregoing Stipulation of Settlement.

Signed this 15th day of October, 2019.

FLORIDA DEPARTMENT OF TRANSPORTATION

By: 

Printed: Kenneth J. Fye

Legal Review:

By: 

David Tropin
Assistant General Counsel

Signed this 16 day of OCTOBER, 2019.

LAMAR EAST FLORIDA

By: _____

A handwritten signature in black ink, appearing to read "Peter Costanza", written over a horizontal line. The signature is stylized and somewhat cursive.

Printed: _____

Peter COSTANZA