

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

LAMAR SOUTH FLORIDA,

Petitioner,

**DOAH CASE NO.: 20-1616
DOT CASE NO.: 19-047 and 19-067**

vs.

DEPARTMENT OF TRANSPORTATION,

Respondent.

_____ /

FINAL ORDER

On August 8, 2019, Lamar South Florida (“Lamar”), initiated this proceeding by filing a Request for an Administrative Hearing (“Petition”). The Petition was filed in response to two Notices of Intent to Revoke Sign Permit for Violation (collectively “Notices”), issued by Respondent, Florida Department of Transportation (“Department”). The Department issued Lamar one Notice for each side of its double-sided billboard. On March 31, 2020, this matter was referred to the Florida Division of Administrative Hearings (“DOAH”). Before the matter could be heard, the parties entered into the attached Stipulation of Settlement (“Stipulation”), resolving all issues.

FINDINGS OF FACT

1. Lamar maintains active outdoor advertising permit numbers 6209 and 6210 (“Permits”) and permit tags CL528 and CL529 (“Permit Tag(s)”). Permit Tag CL528 (formerly Permit Tag AU419) was permitted by the Department on or about December 4, 1973. The Permit Tag for the other sign facing of the double-sided sign structure, CL529 (formerly Permit Tag AW391), was permitted by the Department on or about June 17, 1988. The billboard is located on the Tamiami Trail at milepost 7.676 in Estero, Florida (hereinafter “Subject Sign”).
2. The Subject Sign is located on the property of the Covered Wagon Trailer Park.

3. Lamar owns and operates a second sign, which was not issued a Notice in the current matter, bearing permit tags AU418 and AW392 (“Second Sign”). The Second Sign is also located on the property of the Covered Wagon Trailer Park and is approximately 639 feet away from the Subject Sign.

4. On May 14, 2019 and September 13, 2019, the Department issued Notices to Lamar for each of the Subject Sign’s facings. The Notices state that the nonconforming Subject Sign had not displayed advertising copy for a period greater than 12 months and is thus deemed abandoned pursuant to Rule 14-10.007(5)(b), Florida Administrative Code. The Notices further state that the Department intends to revoke the Subject Sign’s Permits due to the violation.

5. On August 8, 2019, Lamar requested a hearing challenging the Department’s Notices. The Petition was assigned DOT Case Nos. 19-047 and 19-067.

6. On January 02, 2020, the Department, finding no material facts in dispute in the Petition, set the cases for an informal administrative law hearing.

7. On January 17, 2020, Lamar filed an Objection to Informal Hearing, Motion for Leave to File Amended Request for Hearing Involving Disputed Issues of Material Fact, and Motion to Refer Matter to the Division of Administrative Hearings.

8. On March 31, 2020, the Department referred this matter to DOAH.

9. On August 24, 2020, Mary Gibbs, FAICP, the Community Development Director for the Village of Estero, emailed the Department and confirmed that the Covered Wagon Trailer Park property is zoned “RV-3” (Recreational Vehicle). Ms. Gibbs explained that the Covered Wagon Trailer Park “property is being used exclusively as an RV and mobile home park. The RV-3 district is residential and does not allow commercial or industrial use.” (Ms. Gibbs’ email is attached as Exhibit “A”).

10. 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.

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. Further, the Subject Sign and the Second Sign, do not meet the land use requirements in accordance with Section 479.024, Florida Statutes. The Subject Sign and the Second Sign are both legally permitted nonconforming outdoor advertising signs.

ORDER

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

ORDERED that the Department and Lamar stipulate that the Subject Sign and the Second Sign are both legally permitted nonconforming outdoor advertising signs. Lamar and the Department further stipulate that a reason for the nonconforming designation is due to the current zoning determinations which do not meet the requirements of Section 479.024, Florida Statutes.

It is further

ORDERED that Lamar may continue to maintain the Subject Sign and the Second Sign as legally permitted nonconforming signs. Lamar must maintain both the Subject Sign and the Second Sign in a manner consistent with all applicable Florida Statutes and Florida Administrative Code rules. It is further


ORDERED that Lamar provide the Department with outdoor advertising consistent with the attached Stipulation and incorporated herein to help promote the health, safety, and welfare of the public. It is further

ORDERED that Lamar pay the Department \$2,500 in attorney's fees and costs within 45 days of issuance of this Final Order. 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 9th day of October, 2020.

for 

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

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

Matthew Bryant, Esq.
Jerry Livingston, Esq.
Pennington, P.A.
215 South Monroe St, 2nd Floor,
Tallahassee, FL 32301



Florida Department of Transportation

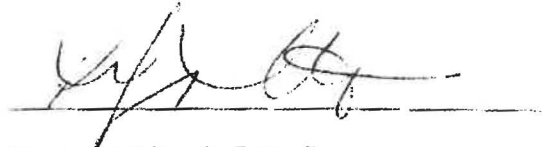
RON DESANTIS
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

KEVIN J. THIBAUT, P.E.
SECRETARY

DELEGATION OF AUTHORITY

I, Kevin J. Thibault, P.E., Secretary of the Florida Department of Transportation, delegate to Torey Alston as the Chief of Staff and Courtney Drummond, P.E. as the Assistant Secretary for Engineering and Operations, and Stacy Miller, P.E., as the Assistant Secretary for Finance and Administration, the authority and responsibility to take action on my behalf at anytime during my absence from the Department headquarters in Tallahassee. I also rescind any prior delegations to the contrary.



Kevin J. Thibault, P.E., Secretary
Florida Department of Transportation

4.23.2020

Date

Greene, Amber

From: Mary Gibbs <gibbs@estero-fl.gov>
Sent: Monday, August 24, 2020 3:44 PM
To: Tropin, David
Cc: Nancy E. Stroud, PA
Subject: Estero land use question
Attachments: 21446 S Tamiami Trail - Google Maps.pdf

EXTERNAL SENDER: Use caution with links and attachments.

Good Afternoon Mr. Tropin,

Thank you for reaching out to the Village with your questions. I am happy to respond. In my position as Community Development Director for Estero, I am responsible for implementation of the Comprehensive Plan and Land Development Code/zoning regulations.

In response to our recent conversation, I have reviewed the property where the billboard is located. The property is known as the Covered Wagon trailer park, 21446 Tamiami Trail. The zoning for this property is RV-3, Recreational Vehicle. The property is not zoned for Commercial or Industrial use. It is developed and being used exclusively as an RV and mobile home park. The RV-3 district is residential and does not allow commercial or industrial use.

Please feel free to contact me if you have further questions.

Mary Gibbs, FAICP



Community Development Director

[Main Office: 239-221-5036](tel:239-221-5036)

[Fax: 239-390-1135](tel:239-390-1135)

gibbs@estero-fl.gov

www.Estero-fl.gov

Email which is created or received by a Village of Estero employee or official in connection with the transaction of official business of the Village of Estero is considered public record and is subject to inspection and/or copying in accordance with Chapter 119, Florida Statutes and is subject to applicable state retention laws, unless exempted by law.