

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF COMMUNITY
AFFAIRS,

Petitioner,

v.

Docket No. 10-1-NOI-3601-(A)-N)

LEE COUNTY,

Respondent.

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DEPARTMENT OF COMMUNITY AFFAIRS' PETITION
FOR FORMAL ADMINISTRATIVE HEARING

Petitioner, Department of Community Affairs (Department or DCA), hereby files this Petition for Formal Administrative Hearing, and says:

1. The Department is the state land planning agency and has authority to administer and enforce the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, Florida Statutes (Act).

2. Among the responsibilities of the Department under the Act is the duty to review plan amendments submitted by local governments and to determine if the plan amendments are in compliance with the Act. Fla. Stat. § 163.3184(8)(a).

3. "In compliance" means consistent with the requirements of §§ 163.3177, 163.3178, 163.3180, 163.3191, and 163.3245, Florida Statutes, the State Comprehensive Plan, the Strategic

Regional Policy Plan, and Rule 9J-5, Florida Administrative Code. Fla. Stat. § 163.3184(1)(b).

4. Lee County (County) is a local government which has the duty to adopt comprehensive plan amendments that comply with the Act pursuant to §§ 163.3167(2), 163.3177, and 163.3184, Florida Statutes.

5. On March 3, 2010, the County adopted Amendment CPA 2008-06 to its comprehensive plan by Ordinance Nos. 10-19, 10-20, and 10-21 (Amendments) that change the Vision Statement; Future Land Use Element; Groundwater Recharge Sub-element of the Community Facilities and Services Element; Conservation and Coastal Management Element; Glossary; Future Land Use Map Series; and Lee Plan Table 1(a) and Table 1(b).

6. The Department complied with and completed all general and specific statutory prerequisites and conditions required by § 163.3184, Florida Statutes, and found the Amendments to be not in compliance as set forth in its Statement of Intent dated May 11, 2010.

7. A copy of the Statement of Intent issued on May 11, 2010, by the Department concerning the Amendments is attached as Exhibit A, and the Notice of Intent scheduled for publication on May 12, 2010, is attached as Exhibit B, both of which are hereby incorporated by this reference.

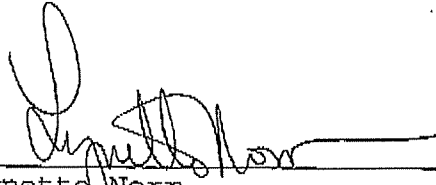
8. The Amendment is not in compliance because it contains the inconsistent provisions described in the Statement of Intent.

9. The Department has determined that the Amendment may be brought into compliance by accomplishing the "recommended remedial actions" described in the Statement of Intent or by completing other remedial actions that eliminate the inconsistencies.

WHEREFORE, the Department respectfully requests:

- (a) that an Administrative Law Judge be assigned to this matter and assume jurisdiction pursuant to § 163.3184(10), Florida Statutes;
- (b) that a formal hearing be conducted pursuant to §§ 120.569, 120.57, and 163.3184, Florida Statutes;
- (c) that the Administrative Law Judge issue a Recommended Order to the Administration Commission finding the Amendment to be not "in compliance";
- (d) that the Administration Commission enter a Final Order finding the Amendment to be not "in compliance" and specifying remedial actions that would bring the Amendment into compliance;
- (e) that the Administration Commission specify those sanctions which may be imposed as a result of the finding of not "in compliance" if the County fails to undertake appropriate remedial actions; and
- (f) that such other relief consistent with this Petition be granted as may be fair and just.

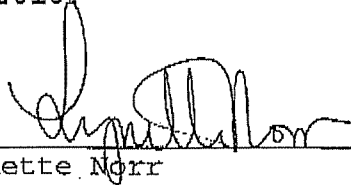
Respectfully submitted on this 1st day of June, 2010.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to each of the persons listed below by U.S. Mail on this 1st day of June, 2010.



Lynette Norr

The Honorable Tammara Hall, Chairwoman
Lee County Board of County Commissioners
David M. Owen, Esquire
Lee County Attorney
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