

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

RG TOWERS, LLC, a Delaware Limited
Liability Company

Petitioner,

vs.

TOWN OF LAKE PARK, FLORIDA

Respondent.

Case No. _____

PETITION FOR WRIT OF CERTIORARI

Petitioner RG Towers, LLC (“**RG Towers**” or Petitioner) petitions the Circuit Court pursuant to Fla. R. App. P. 9.100(c)(1) and (c)(2) for issuance of a writ of certiorari directed to Respondent Town of Lake Park (the “**Town**” or Respondent) quashing its Final Order rendered April 6, 2016 denying Petitioner’s Application for Site Plan Approval. Petitioner’s Application was improperly denied, and Petitioner now files this Petition. In support, RG Towers alleges and states the following:

I. INTRODUCTION.

RG Towers constructs and maintains telecommunication towers. RG Towers excels in identifying “dead zones” (locations where towers are needed to fill in gaps in cellular coverage), locating leasable government owned property, designing appropriate towers, and constructing such towers. RG Towers generates revenues by leasing such towers to national telecommunications providers such as T-Mobile or Sprint.

RG Towers has identified a “dead zone” in the Town of Lake Park. After considerable due diligence, RG Towers located real property at the Lake Park Marina available for lease and

suitable for construction of a tower. RG Towers then proceeded to secure a lease for that site with the Town, ensuring RG Towers' specific ability to construct the tower on the site. The Town adopted two resolutions approving a lease and an amendment thereto. Pursuant thereto, RG Towers submitted an Application of the tower, which essentially concerned the Tower's design details, including surrounding landscaping.

When RG Towers presented its application for approval of its tower design to the Town Commission on March 21, 2016, it met opposition from local residents. At that hearing, for the first time, some residents raised new and inapplicable arguments, not set forth as requirements for approvals of cellular antenna towers as provided for in the applicable section of the Town Code. Bowing under the pressure of negative and inflammatory rhetoric from intervening local residents, the Town denied RG Towers' Application based in part on these inapplicable criteria raised for the first time by the intervenor at the March 21 hearing, along with other inapplicable criteria discussed herein.

There are several problems with the Town's decision in this matter. First, in denying Petitioner's Application based on criteria raised for the first time by a local resident intervenor at the March 21 hearing, without affording Petitioner an opportunity to review the materials, present rebuttal testimony or cross-examine presenting witnesses, the Town denied Petitioner its right to procedural due process. Second, the Town denied the site plan application based on criteria that are not applicable to RG Towers' Application, thereby violating the essential requirements of law. Finally, the Town's denial was based on neighbor objection and unsworn "testimony" of an alleged expert witness who was not present at the hearing, which does not amount to competent substantial evidence.

II. THE PARTIES.

1. Petitioner is a Delaware limited liability company with headquarters in Palm Beach County, Florida, in the primary business of designing, constructing, and installing telecommunication towers. RG Towers was the applicant, pursuant to a lease with the Town, for the requested approval that is the subject of this Petition. [See Exhibit E].¹

2. The Town of Lake Park is a municipality incorporated in the State of Florida and represented by its Board of Commissioners. The Town has regulatory authority over RG Towers' Application.

III. BASIS FOR INVOKING JURISDICTION OF THE COURT.

This Court has jurisdiction to review the Town's quasi-judicial decision denying the Petitioner's Application. Fla. R. App. P. 9.030(c) and Rule 9.100(c)(2); *See also, Park of Commerce Asocs. v. Delray Beach*, 636 So. 2d 12, 15 (Fla. 1994); *Board of County Commissioners of Brevard County v. Snyder*, 627 So. 2d 469, 474 (Fla. 1993).

IV. FACTS ON WHICH PETITIONER RELIES.

A. General Background.

1. The Town is a municipality incorporated in the State of Florida.

2. The laws and regulations of the Town are set forth in its Code of Ordinances. Specifically, as to wireless telecommunications towers and antennae, such as proposed by the Application, the standards for approval are set forth in Article III, Section 74-65. [Exhibit H, Section 74-61 ("All new towers or antennae in the town shall be subject to these

¹ References to Exhibits are to the Appendix to RG Towers' Petition for Writ of Certiorari filed concurrently herewith.

regulations.”); Section 74-65 (“The following general requirements shall apply to all new telecommunications facilities...”)].

3. In April 2014, the Town passed a resolution authorizing and directing the Town’s mayor to execute a lease and option agreement for the siting and construction of a communications tower at land in the Lake Park Harbor Marina (the “**Marina**”) measuring 25 by 30 feet, or 750 square feet. [See Exhibit A, Fifth Whereas clause, and Sections 1 and 2; see also Exhibit B, Paragraph 1].

4. Subsequently, T-Mobile South LLC, a Delaware limited liability company (“**T-Mobile**”) entered into a contract with the Town titled “Site Lease with Option” to lease a section of real property in the Marina for the purpose of ultimately building a stealth telecommunication tower. [See Exhibit C (the “**Lease**”)].

5. In support of the Lease, T-Mobile showed the Town exhibits of the 125-foot stealth yard-arm tower it planned to construct on the Site at the Marina, along with appropriate landscaping surrounding the area. [Exhibit C; Exhibit G, 30:8-14²].

6. In Section 5 of the Lease, titled “Permitted Use,” the Town states that “...the Premises may be used by [Petitioner] with transmission and reception of radio communications signals, *and for the construction, installation, operation to repair, removal or replacement related to the lighting facility, including a tower base and antenna.*” [Exhibit C, Page 2, Section 5 (emphasis added)].

7. Section 7 of the Lease provides that Petitioner shall have the right, at its expense, to “...erect and maintain on the Premises improvements, personal property, and facilities

² Citations to Exhibit G, the Transcript of the March 21, 2016 hearing are as follows: P: L-L (where the citation is on a single page) or P:L – P:L (when the citation is on more than one page).

necessary to operate its communications system, including, without limitation,tower and base.....” Section 7 goes on to detail a tower and its facilities, and what can be done to restrict access around the tower, as well as what can be done to repair and replace the tower. [Exhibit C, Page 3, Section 7(a)].

8. Pursuant to Section 15 of the Lease, T-Mobile ultimately assigned the Lease to Petitioner. [Exhibit C, Page 7, Section 15].

9. In March 2015, the Town, at a publicly noticed meeting, approved an amendment to expand the footprint of the tower site (the “**Site**”), again showing the 125 foot stealth yard-arm tower and landscaping [Exhibit G, 30:15-20].

10. The Town approved the Lease as amended. [See Exhibit D].

11. On February 10, 2015, Petitioner submitted an application to the Town for approval of a site plan for a 125-foot stealth yard-arm telecommunication tower on the Site. [Exhibit E (the “**Application**”)]. After several reviews by Town Staff, and resubmittals by Petitioner, and review by the Planning & Zoning Board, the matter was set for hearing before the Town Commission on March 21, 2016.

12. By the evening of March 14, 2016 all materials representing the Town’s Agenda package and including the materials relating to Petitioner’s Application were to be uploaded to the Town’s website, for access by all interested parties, including Petitioner. [See Exhibit F; see also Exhibit K, Sec. 2-2(d)(4)(e)].

13. On March 15, 2016, Petitioner’s counsel downloaded three adobe acrobat files available on the Town’s website, which were all the available materials. This did not include any materials from the intervenor.

14. On the morning of March 21, 2016, the day of Petitioner’s hearing, Petitioner was

advised and became aware for the first time that there was a fourth adobe acrobat document to the Town Agenda package; that fourth adobe acrobat document, previously unavailable to Petitioner, contained the intervenor's materials in opposition to Petitioner's Application. [See Exhibit F; *see also*, Exhibit G, 72:4-7, 58:19-25; 59:1-3].

15. On Monday, March 21, 2016, the Town conducted a hearing on RG Towers' Application. This was the last day the hearing could take place. Section 365.172(13)(d)(2), *Florida Statutes* (2015).

16. At the hearing, the Town allowed an intervenor and multiple members of the public to make presentations based on the materials that were not timely made available to Petitioner. Among the materials included was a "report" of an alleged expert retained by the intervenor, upon which the Town relied in denying Petitioner's Application. [See, e.g., Exhibit G, Pages 36-44].

17. The Town denied the Application based at least in part on the intervenor's statements in opposition to the Application and the unsworn "report" of a witness who was not available for cross-examination. [*Id.*; Section VI.D, *infra*].

V. NATURE OF THE RELIEF SOUGHT.

Petitioner seeks a writ of certiorari from the Court directed to the Town and instructing it to reverse its Final Order rendered April 6, 2016.

VI. ARGUMENT AND LEGAL AUTHORITY IN SUPPORT OF PETITION.

A. Standard of Review.

"[F]irst-tier certiorari review is not discretionary but rather is a matter of right and is akin in many respects to a plenary appeal. . . ." *Broward County v. G.B.V. Int'l, Ltd.*, 787 So. 2d 838, 843 (Fla. 2001.) This Court, on first-tier certiorari review of the action taken by the Town, must

determine: (1) whether procedural due process was accorded; (2) whether the essential requirements of the law” were observed; and (3) whether the administrative findings and judgment are supported by “competent substantial evidence.” *Town of Deerfield Beach v. Vaillant*, 419 So. 2d 624, 626 (Fla. 1982); *see also, Florida Power & Light Co. v. City of Dania*, 761 So. 2d 1089, 1092 (Fla. 2000). The Town’s actions fail on all three bases.

B. The Town Did Not Afford the Petitioner Procedural Due Process.

The Town violated Petitioner’s procedural due process rights by basing its decision on intervenor’s evidence without allowing Petitioner the opportunity to properly review the materials, sufficient time in which to prepare rebuttal testimony or have its engineer present at the hearing, or cross-examine an alleged expert witness. By the evening of March 14, 2016, all materials representing the Town’s Agenda Packet for March 21, 2016 quasi-judicial hearing — including the materials relating to Petitioner’s Application—were supposed to be uploaded to the Town’s website, for access by all interested parties, including Petitioner. [*See Exhibit F; Exhibit K, Section 2-2(d)(4)(e)*].

On March 21, 2016, the day of Petitioner’s hearing, Petitioner first became aware that there were documents that were to be part of the Town Agenda Packet. The Town did not make those documents available to Petitioner prior to the morning of the hearing. [*Exhibit F; Exhibit G, 72:4-7, 58:19 - 59:3*]. Significantly, these documents pertained directly to the intervenor’s objections to Petitioner’s Application. [*Id.*].

The problems arose when the intervenor began raising arguments about the location and suitability of the Site for construction of a tower, which had not previously been raised (and which Petitioner could not anticipate given the existence of the Lease that provided that the Site was suitable for the tower). For example, in support of their arguments, the intervenor cited to a

letter from an alleged expert, and provided the Town with that letter, stating that Petitioner's tower construction was inappropriate for the Site due to health and safety concerns. [Exhibit G, 36:2-20, 39:17-24]. The intervenor did not present a single expert witness to testify at the hearing, making it impossible for Petitioner to raise any questions as to their expertise, basis for the alleged opinion, or conclusion.

The “‘core’ of due process is the right to notice and an opportunity to be heard.” *Carillon Cmty Res. v. Seminole Cty*, 45 So.3d 7, 9 (Fla. 5th DCA 2010). To satisfy due process, notice must be reasonably calculated to apprise interested individuals of the pendency of an action affecting their rights in order to afford the individuals the opportunity to present their position. *Vosilla v. Rosado*, 944 So. 2d 289, 293 (Fla. 2006) (citing *Mullane v. Central Hanover Bank & Trust Co.*, 339 US 306, 314 (1950)). Petitioner raised the lack of due process issue several times during the course of the March 21, 2016 quasi-judicial hearing. [Exhibit G, 58:19-25, 59:1-3; 123:5-9]. The Town considered the evidence and relied on it anyway.

There are “three distinct factors to consider in the analysis of whether the due process accorded in any proceeding was constitutionally sufficient: 1) the private interest that will be affected by the official action; 2) the risk of an erroneous deprivation of such interest through the procedures used; and 3) the probable value, if any, of additional or substitute procedural safeguards.” *Carillon*, 45 So. 3d at 9. Considering all three factors in this case establishes that the Town deprived Petitioner of procedural due process.

First, the private interest that was affected by the Town's denial of Petitioner's Application in this case is a fundamental right protected by the Declaration of Rights in the Florida Constitution. *Article I, Section 9 of the Florida Constitution* provides that “no person shall be deprived of ... property without due process of law...” Petitioner has a property interest in the

Site pursuant to its Lease with the Town. *See Dames v. 926 Co.*, 925 So. 2d 1078, 1082)(Fla. 4th DCA 2006)(recognizing that a leasehold is a property interest subject to constitutional protection in eminent domain).

Second, the Town's denial of due process deprived Petition the opportunity to be heard by not providing Petitioner the notice of objections, thereby allowing Petitioner's expert witness to attend the hearing, and failing to allow cross-examination of an alleged expert witness. The Town's Final Order was based on evidence presented by the intervenor that Petitioner did not receive until the morning of the hearing, a week after the materials were to be provided. This prohibited Petitioner from being able to review the materials with ample time to prepare a response or present rebuttal evidence at the March 21, 2016 hearing. The Town further failed to afford Petitioner procedural due process by considering alleged expert opinions without the actual witness present for cross-examination. The failure to permit cross-examination is a denial of procedural due process. *Jennings v. Dade County*, 589 So. 2d 1337-1339-40 (Fla. 3d DCA 1991)("In quasi-judicial zoning proceedings, the parties must be able to present evidence, cross-examine witnesses, and be informed of the facts upon which the commission acts."); *see also*, Exhibit K, Section 2-2(d)(2) (providing that Petitioner "shall be given the opportunity to ... cross examine [sic] any other party or party intervenor's witness."); Exhibit K, Section 2-2(d)(4)(e) (providing that Petitioner "may ask questions of the intervening party witnesses.")³

If the Town had provided Petitioner sufficient time to review the intervenor's materials, Petitioner could have ensured its engineer would be present to rebut the evidence, and to work with the Town to answer its questions raised by the intervenor's materials. Further, with the

³ Even if the failure to follow its own Code did not amount to a violation of Petitioner's right to procedural due process, it would still fail to meet the essential requirements of law, which would be an additional basis for the granting of the requested Writ.

opportunity to cross-examine the alleged expert, Mr. Duckworth, Petitioner could have shown that he did not have a proper basis for his conclusions. For example, Petitioner's engineer could have explained that the alleged report was based on studies that were not in Florida and had no bearing on Petitioner's Application. Petitioner's engineer, to the contrary, could have shown much more applicable evidence of a tower located in the Town, also on Town property, that would have shown that Mr. Duckworth's allegations were without merit. Moreover, these were not even issues that – without proper notice and Mr. Duckworth being present to testify – Petitioner could raise in cross-examination, showing that Mr. Duckworth's opinions were meritless.

The probable value of additional or substitute procedural safeguards is evident from the colloquy at the Town Commission hearing itself. The intervenor representative, Mr. Curtis Lyman, presented an alleged expert "report" opining that the proposed tower did not comply with provisions of Chapter 74 of the code, based on alleged health and safety concern due to the possibility of lightning strikes on the proposed tower [Exhibit G, 36:2-20, 37:6-7, 39:17-24]. The Mayor then questioned counsel for Petitioner about Petitioner's compliance with Section 74-65 of the Code, specifically citing to the intervenor's alleged expert evidence, and requesting Petitioner provide expert testimony as rebuttal. [Exhibit G, 56:25 - 57:7]. Petitioner's counsel explained yet again that Petitioner's due process rights had been violated, that Petitioner had received insufficient notice of the materials, had not had adequate time to prepare a response, or secure the availability of Petitioner's engineer, who was out of the country on that date. [Exhibit G, 58:19-59:3]. Had Petitioner had sufficient time and adequate notice, it would have had its engineer present or at least available, and could have participated in the process. [Exhibit G, 78:4-16].

While the Town had a procedure in place, it failed to adhere to its own procedure in giving Petitioner access to the materials necessary to prepare for the hearing. Had the Town made the materials available to Petitioner in sufficient time, Petitioner would have had its engineer present or otherwise available to testify at the hearing to provide rebuttal evidence to the Town that the tower design could be done in such a way to alleviate the concerns expressed by the intervenor and later the Town. By failing to make the materials available in sufficient time, however, the Town elected not to comply with its own procedures, and denied Petitioner an opportunity to properly prepare for the hearing. Further, by relying on alleged experts opinions without such alleged experts being present, Petitioner was denied the opportunity to cross-examine such alleged experts either on their expertise or their conclusions. For the foregoing reasons, the Town did not afford Petitioner procedural due process.

C. The Town departed from the Essential Requirements of Law by Improperly Applying Inapplicable Standards to Petitioner’s Application.

The Town departed from the essential requirements of law by applying the incorrect standards to Petitioner’s Application. *Dusseau v. Metro Dade County Board of County Commissioners*, 794 So. 2d 1270, 1274 (Fla. 2001)(applying the correct law is synergistic with the essential requirements of law). The Town based its denial of Petitioner’s Application on inapplicable standards. Petitioner’s Application concerned the design and landscaping around a proposed telecommunications tower, a *permitted use* under the Town’s Code. [Exhibit H, Section 74-63(a)]. This development is governed by Section 74-65 of the Town’s Code. [Exhibit H, Section 74-61]. By meeting those standards, the Town determined that the purposes of the regulations as set forth in Section 74-61 are met. [Exhibit H, Section 74-61(b) (“In order to

protect the unique nature of the town and avoid land use conflicts, the town has enacted an article which takes [the nature of the town] into account...for wireless telecommunication towers and antennae”]. Yet the Town considered Additional Criteria above and beyond that set forth as a requirement in Section 74-65 and based its denial on such inapplicable criteria.

The Town Code sets forth the requirements for approval of cellular communication towers in Section 74-65. However, instead of focusing on whether petitioner met these requirements—which Petitioner did—the Town allowed in evidence of and considered a different, inapplicable set of Additional Criteria. These “Additional Criteria” included the intervenor’s alleged expert report and several elements of the Town’s comprehensive plan: (a) the Town Goal Statement 3.4.1; (b) Objective 5, Policy 5.1; (c) Objective 1, Policy 1.5; (d) Objective 5; and (e) Objective 5, Policy 5.4 (collectively, the “**Additional Criteria**”). These Additional Criteria, however, are *not* applicable to the Application and are not referenced in Section 74-65 of the Town’s Code. Instead, by meeting the Town Code, these requirements are deemed met. [Exhibit H, Section 74-61(b), *supra*]. Regardless, the Town improperly used these Additional Criteria as a basis for denying Petitioner’s Application. [See Exhibit B, Paragraph 10]. In doing so, the Town violated the essential requirements of law.

D. The Town’s Denial Was Not Supported by Competent Substantial Evidence.

The competent substantial evidence standard was explained by the Fourth District Court of Appeal in *Pollard v. Palm Beach County*, 560 So. 2d 1358, 1359-60 (Fla. 4th DCA 1990):

The supreme court, in *De Groot v. Sheffield*, 95 So. 2d 912, 916 (Fla. 1957), explained in the following language what is meant by the term “competent substantial evidence” in the context of certiorari review:

Substantial evidence has been described as such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. We have stated it to be such relevant evidence as a reasonable mind would accept

as adequate to support a conclusion. *Becker v. Merrill*, 155 Fla. 379, 20 So.2d 912; *Laney v. Board of Public Instruction*, 153 Fla. 728, 15 So. 2d 748. In employing the adjective “competent” to modify the word “substantial,” we are aware of the familiar rule that in administrative proceedings the formalities in the introduction of testimony common to the courts of justice are not strictly employed. *Jenkins v. Curry*, 154 Fla. 617, 18 So. 2d 521. We are of the view, however, that the evidence relied upon to sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. To this extent the “substantial” evidence should also be “competent.”

Id.

Petitioner complied with the Code requirements for approval of its Application by meeting the criteria set forth in Section 74-65 of the Town’s Code. While Petitioner presented significant evidence in support of the Application, all related to the requirements of the applicable section of the Town code, there was *no* competent substantial evidence that these sections of the Code were not met. Petitioner submitted its written Application, which included reports by its engineer and expert, the site plan, compound plan, notes plan, elevation plan, wood fence detail plan, trench detail plan, electric plans, landscaping proposals, and irrigation plans, prepared by engineers and architects. [See Exhibit E]. Petitioner also submitted a drawing of the proposed tower with its calculations, the comparative analysis, the geotechnical reports, the visual analysis, and the photo simulations. [*Id.*]. Petitioner provided testimony from its Certified Land Planner at the March 21 hearing that its Application complied with the Town’s comprehensive plan, land development regulations, and specifically Section 74-65 of the Code. [Exhibit G, 23: 12-15]. Finally, Petitioner testified that it was willing to re-design the tower and re-landscape around the Tower according to whatever aesthetic needs the Town felt suitable. [Exhibit G, 26:4-11]. Notably, the Town staff recommendation was based on inapplicable criteria – the comprehensive plan, not referenced in Section 74-65, and those that applied when,

unlike the present circumstance, a special exception was being sought. [Exhibit H, Section 74-66; Exhibit G, 13:1 - 20:6].⁴ These were newly formed bases that were not consistent with Staff's findings at the Planning & Zoning Commission. At that time staff took *no position* relative to the Application because, as the staff noted, while the requirements of the Town Code were met, the staff reviewed other municipalities' codes and though additional criteria not contained in the Town Code should be considered. [Exhibit I, P. 6 ("The Applicant has met the basic application requirements per the Code, however, since the Town Code does not specifically elaborate on additional site plan criteria and while we cannot deny the Applicant his/her right to move forward through the P&Z Board and Town Commission approval process, Staff is unable to render a recommendation of approval or denial at this point, given the many discussion points relevant to other municipal code criteria.")].

Similarly, the intervening neighbors and residents in the community also raised issues not applicable to the pending Application, which cannot and does not constitute competent substantial evidence. *See Pollard v. Palm Beach County*, 560 So. 2d 1358, 1359-60 (Fla. 4th DCA 1990) (finding no competent substantial evidence to deny special exception and noting that the circuit court "overlooked the law which says that opinions of residents are not factual evidence and not a sound basis for denial of a zoning change application."); *City of Apopka v. Orange County*, 299 So. 2d 657, 660 (Fla. 4th DCA 1974) ("The evidence in opposition to the request for exception was in the main laymen's opinions unsubstantiated by any competent

⁴ The staff report mentions one potentially relevant criteria – aesthetics – but does not do so in relation to Section 74-65(6), which provides specific requirements, which when met mean that this requirement is met. In the staff report, for example, the staff references "the character of the park like setting." [Exhibit J, P. 6]. However, this is *not* a criteria set forth in Section 74-65(6) of the Town Code. Height, which is referenced as a visual impact issue in the staff report is subject of Section 74-65(7) – which the staff acknowledges is met [*Id.*, P. 7] - and does not reference the character of the adjacent properties as referenced on Page 6 of the Staff Report. That is only applicable to special exception requests; not the request for the permitted use as in Petitioner's Application. [Exhibit H, Section 74-66(c)(3)].

facts”). Moreover, the alleged opinion letter read in part by the intervenor cannot constitute competent substantial evidence. Mr. Duckworth is not an engineer licensed in the state of Florida. Further, there is no basis for his opinion. For example, though he references a review of plans, there is no way to know whether he is reviewing the appropriate plans presented to the Town Commission. Similarly, there is no way to know how he came to the conclusory statements contained in his letter. Nor was the report was not sworn testimony. Mr. Duckworth did not show up to testify, and the Town attorney determined that his testimony by phone would not be permitted because it would be impossible to determine if he was properly sworn. Yet he was the only alleged expert on these points that influenced the improper denial of Petitioner’s Application. This cannot constitute competent, substantial evidence. *City of Apopka*, 299 So. 2d at 660 (finding that witnesses who were not sworn and subject to cross-examination could not be relied on for competent substantial evidence). The Town’s deliberations show that the denial of Petitioner’s Application was not based on competent substantial evidence, but instead was based on inapplicable issues, particularly the intervenor’s commentary and the baseless, unsworn alleged expert opinion. [Exhibit B; Exhibit G, 44:19-22, 56:25-57: 7; 69:16-23].

VII. CONCLUSION.

Based on all of the foregoing, Petitioner respectfully requests this Court issue a writ of certiorari to the Town of Lake Park reversing its Final Order rendered April 6, 2016, and for any further relief this Court deems equitable and just.

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of May, 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and a copy of the foregoing document was furnished by Electronic Mail in accordance with Florida Rules of Judicial Administration 2.516 to: Thomas J. Baird, Esq., Jones Foster, Johnston & Stubbs, PA, 505 South Flagler Drive, Suite 1100, West Palm Beach, Florida 33401, (561) 650-8233, tbaird@jonesfoster.com.

Respectfully submitted,

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