

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

CARILLON COMMUNITY RESIDENTIAL
ASSOCIATION, INC., and KEN HOFER,

Petitioners,

vs.

CASE NO.: 5D09-3789
L.T. Case No.: 09-19-AP

SEMINOLE COUNTY, FLORIDA, AHG
GROUP, LLC, and UNIVERSITY OF
CENTRAL FLORIDA FOUNDATION, INC.,

Respondents.

RESPONDENT, SEMINOLE COUNTY'S MOTION FOR EXTENSION OF TIME

Respondent, Seminole County, by and through its undersigned attorneys, and pursuant to Florida Rules of Appellate Procedure 9.300, hereby files this Motion for Extension of Time to submit its Response to Petition for Writ of Certiorari, and states its grounds as follows:

1. This matter is an appeal of a development approval by the Petitioners by petition for writ of certiorari. Petitioners are adjacent homeowners to the proposed development.

2. An Order to Show Cause was mailed by the court clerk and received by this office on November 25, 2009. (See copy of Order attached.)

3. The Order directed that a response be filed within 20 days. Respondent calculated the due date as December 21, 2009 with additional time after service by mail.

4. Rule of Appellate Procedure Rule 9.410(e) provides: "If a party, court reporter, or **clerk** is required or permitted to do an act within some prescribed time after service of a document and the document is served by mail, 5 days shall be added to the prescribed period." [emphasis added]

5. It has come to the attention of the undersigned that Petitioners dispute that additional time after service by mail applies.

6. Respondent expects to have a Response filed shortly.

7. The undersigned counsel for Respondent, Seminole County, certifies she has consulted with counsel for the Petitioners, **David A. Theriaque, Esq.**, and that counsel for the Appellant responded with case citations and reference to the Court's docket claiming that the County's Response is already past due which Respondent assumes to mean is an objection to the extension of time and this Motion requesting said extension.

8. Respondent, therefore, in an abundance of caution, and to offset any claims of untimeliness by Petitioners, makes the instant request for an extension to file our Response to December 23, 2009.

9. Due to Respondents' existing caseload and the absence of personnel for the holidays, Respondent requests another two additional days beyond December 21, 2009.

10. The undersigned represents that this request is made in good faith and not made for the purpose of delay and that none of the parties nor this Court will be prejudiced by the granting of this Motion. Petitioners will not be prejudiced by the granting of this motion in that they do not own the property to be developed or rights to any development permits for the same.

11. The undersigned counsel for Respondent, Seminole County, certifies she has consulted with counsel for the Co-Respondents, **Janet M. Courtney, Esq.** and that counsel for the Co-Respondents consents to the extension of time and this Motion requesting said extension. Co-Respondents have represented that they will also request an extension from this Court to which the County consents.

12. At the Petition for Writ of Certiorari in the Circuit Court below, Petitioners requested an extension of time from June 26, 2009 to July 20, 2009 to file their Reply Brief and to do a combined Reply. Petitioners then made a second request for an additional 6 days before ultimately filing their brief.

WHEREFORE, Seminole County requests that this Honorable Court grant it an extension until December 23, 2009, to serve its Response.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to David A. Theriaque, Esq., 433 North Magnolia Drive, Tallahassee, FL 32308, attorney for Petitioners; and to Janet M. Courtney, Esq. Lowndes, Drosdick, Doster, Kantor & Reed, P.A., P.O. Box 2809, 215 North Eola Drive Orlando, FL 32802-2809, attorney for Co-Respondents, by U.S. Mail this 18th day of December, 2009.

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KATHLEEN FUREY-TRAN
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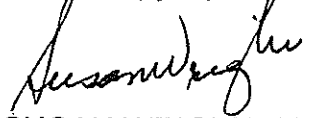
DATE: November 23, 2009

BY ORDER OF THE COURT:

ORDERED that Respondent in the above-styled cause shall file with this Court and show cause, on or before **twenty** days from the date hereof, why the Petition for Writ of Certiorari, filed October 26, 2009, should not be granted. Additionally, it is

ORDERED that Petitioner is granted **ten** days from service of the Response ordered herein, to file a Reply thereto. Attorneys shall also e-mail a copy of the ordered response or reply to this Court in compliance with Administrative Order AO5D08-01.

*I hereby certify that the foregoing is
(a true copy of) the original Court order.*


SUSAN WRIGHT, CLERK



cc: S. Brent Spain, Esq., David A. Theriaque, Esq. and Leslie E. Bryson, Esq.
Robert A. McMillan, Esq.
Janet M. Courtney, Esq.

KFT ✓
Answers
access
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