

**IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA**

CONDO DEVELOPER, LLC,
Petitioner,

CASE NO.: 2008-CA-26723-O
WRIT NO.: 08-58

v.

**HIGHWOODS DLF EOLA, LLC and
THE CITY OF ORLANDO,**
Respondents.

Petition for Writ of Certiorari.
Decision of the City Council
for the City of Orlando.

H. Ray Allen, II, Esquire,
Joseph H. Lang, Jr., Esquire, and
Erin E. Banks, Esquire
for Petitioner.

Scott A. McLaren, Esquire,
Landis V. Curry, III, Esquire, and
Eric E. Page, Esquire,
for Respondent, Highwoods DLF Eola, LLC.

Kyle Shephard, Esquire and
Karen Z. Consalo, Esquire,
for Respondent, City of Orlando.

Before LATIMORE, MIHOK, THORPE, JJ.

PER CURIAM.

FINAL ORDER DENYING PETITION FOR WRIT OF CERTIORARI

Petitioner, Condo Developer, LLC, seeks to quash Respondent, City of Orlando's approval of the Hearing Officer's Recommended Final Order for quasi-judicial case number 2007-013 as amended by the City Council addressing Highwoods DLF Eola, LLC's application for amendment to the Master Plan (MPL 2007-00034) permitting development of a 317 foot high

residential, office, and retail tower on Lake Eola in the City of Orlando. This Court has jurisdiction pursuant to Florida Rule of Appellate Procedure 9.030(c)(3). We dispense with oral argument pursuant to Florida Rule of Appellate Procedure 9.320.

Highwoods DLF Eola, LLC (“Highwoods”), is a Delaware limited liability company which owns real property located at 200 East Robinson Street, in Orlando, Florida (“Highwoods Property”). Highwoods Property is part of an existing master plan comprised of several parcels of land known as the Eola Park Centre Master Plan, approved by the City of Orlando (“City”) several years ago. In 2007, Highwoods applied to the City for a master plan amendment so that it could build a forty-two story mixed-use, high-rise building on its property. Condo Developer, LLC, (“Condo”), is a Florida limited liability company which owns a multifamily residential high-rise building called “The Vue” that is located across the street and to the west of Highwoods property.¹

Pursuant to section 65.331 of the City of Orlando Code (“City Code”), Master Plan Review is required for development of the property that is designated as an “Activity Center” on the Future Land Use Map. Under the master plan review process as set forth in section 65.334 of the City Code, the City may, limit the height, size or locations of a building or specify urban design guidelines and may establish special yards or other open space or lot area or dimension requirements. On September 24, 2007, Highwoods applied for an amendment to the 2000 Master Plan and submitted a revised application on September 26, 2007. The revised application sought to construct a 42-story, 440 foot tall office tower located on 1.4 acres within the Master Plan property. The building was proposed to include 224 multi-family dwelling units; 1700

¹ As part of a bankruptcy sale, The Vue-Orlando, LLC transferred to Condo all rights regarding The Vue property, including all rights to dispute the use of the land on the adjacent property. Accordingly, on August 20, 2010, an Order was entered granting Petitioner, The Vue-Orlando, LLC’s motion to substitute Condo in its place as Petitioner.

square feet of ground floor retail; 1000 square feet of office space; and 384 parking spaces within an eight story parking garage.

The revised application was considered by the City's Municipal Planning Board ("MPB") at a public hearing that took place on December 18, 2007. The Vue and other interested parties presented testimony and objections at the hearing. At the conclusion of the hearing, the MPB voted to recommend denial of the application.

Upon the MPB's denial of Highwood's application, Highwoods pursued quasi-judicial review of the MPB's decision pursuant to section 2.205 of the City Code and filed a Petition in Opposition to the MPB's decision to recommend denial of the application for amendment to the Master Plan. The Vue filed a response to the Petition in Opposition and was recognized by the Hearing Officer as an adversely-affected party with standing. In the Petition in Opposition, Highwoods alleged that the City was not permitted to impose any height restrictions on the Property and the MPB lacked competent substantial evidence for its decision and departed from the essential requirements of law.

Subsequently, an evidentiary hearing was held by the Hearing Officer on March 19, 2008, April 22, 2008, May 22, 2008, and May 23, 2008. Pursuant to section 2.207 of the City Code, each party was provided the opportunity to present testimony and documents addressing the MPB's decision.² On July 23, 2008, the Hearing Officer issued a Recommended Final Order that contained detailed findings of fact and conclusions of law in accordance with section 2.208 of the City Code.

The Hearing Officer's Recommended Final Order included the following conditions:

² Under Section 2.207 of the City Code, the formal rules of evidence do not apply. Any relevant evidence shall be admitted, including hearsay evidence, but shall not form the sole basis upon which the Hearing Officer's decision is made. Irrelevant and unduly repetitious evidence shall be excluded. The hearing shall be conducted in a manner to ensure that procedural and substantive due process is afforded the applicant.

- 1) Consistent with the Settlement Agreement approved by the City Council in 2000 and which still governs, the Final Site Plan for the area covered by this amendment shall be submitted for review by the MPB and City Council.
- 2) Consistent with the requirements of Section 65.335 of Land Development Code, the submittal for Final Site Plan review shall be made within one year of approval of the Master Plan amendment or the Master Plan amendment will expire.
- 3) The Final Site Plan submittal shall clearly show all impacts to Master Plan areas within and outside the 1.4 acre amendment area.
- 4) The Final Site Plan may include up to 224 residential units, 1,743 sq. ft. of retail use and 1,063 sq. ft. of office use and fitness center.
- 5) The Final Site Plan may only include a maximum building height of 295 feet.
- 6) Consistent with the Settlement Agreement approved by the City Council in 2000 and which still governs the Master Plan requiring negotiations between the City and the property owner over possible encroachments into Lake Eola Park, prior to submittal of the Final Site Plan for review, the City shall make a good faith effort to negotiate with Petitioner an arrangement to provide improved access for the City to its facilities lying between the Property and Lake Eola Park including the possible incorporation of the existing City uses into a revised building plan and Final Site Plan that provides a continuous, pedestrian friendly edge facing Lake Eola Park and better traffic circulation within the property without significant loss of existing vegetation. The feasibility of removing the existing city facilities and reincorporating the same city uses in the ground floor of a revised building footprint with parking and residential units above should be investigated in good faith by the Petitioner and City. If determined feasible, then the non-residential uses allowed and square footage allowed for same may be increased up to 3.0 FAR within the 1.4 acre amendment area and include the existing City uses.
- 7) Whether or not the objectives of Condition 6 are achieved, the Final Site Plan shall include an improved pedestrian interface with Lake Eola Park and shall not include loading areas, whether or not hidden behind garage doors, facing any portion of Lake Eola Park.
- 8) Whether or not the objectives of Condition 6 are achieved, the Final Site Plan shall provide improved vehicular circulation on site resulting in less land area devoted to such circulation and thereby providing improved pedestrian space within the site and along its edges.

- 9) Compliance with all recommendations and conditions not in conflict with this Recommended Order contained in the city staff report to the MPB updated December 11, 2007 [Exhibit 34-Respondent] shall be demonstrated at Final Site Plan approval.

Pet. Appendix, Tab 73, pages 2121-2129.

On June 25, 2008, Highwoods, The Vue, and the City Attorney's office filed Exceptions to the Hearing Officer's Recommended Final Order as provided for under section 2.208 of the City Code. On September 8, 2008, the City Council met to consider the Recommended Final Order per section 2.209 of the City Code and the City Staff recommended adoption of the Recommended Final Order with the following conditions:

- 1) The final site plan be approved through normal administrative procedures as opposed to review and approval by the MPB. Staff advised the City Council that the normal practice is that the Final Site Plan be submitted for Staff review, not to MPB review, as part of the building permit package and that Staff would prefer to stay with standard operating procedure.
- 2) Highwoods apply for and receive either a capacity enhancement agreement or a letter of approval from Orange County Public Schools ("OCPS") based upon a letter the City had received from OCPS and unless otherwise approved by OCPS, the capacity enhancement agreement or the approval letter shall be required prior to one of the following: The submittal for a building permit, the submittal of final site plan application, or within three months of approval of the Master Plan, whichever event occurs first, thus, in accordance with the request of Orange County Public Schools and the interlocal agreement between it and the City as it relates to school concurrency.

Pet. Appendix, Transcript from hearing, Tab 23, pages 921-922.

On September 15, 2008, the City Council adopted, via a 6 to 1 vote, the Hearing Officer's Recommended Final Order and the Master Plan amendment with the following additional conditions:

- 1) Consistent with the City's Exception to the Recommended Order, condition #1 on page 21 of the Recommended Order be stricken (requiring Final Site

Plan review by MPB and City Council).

- 2) Consistent with the request from Orange County Public Schools in a letter from their General Counsel, dated September 3, 2008, approval of the Recommended Order, is conditioned upon the applicant obtaining an approved OCPS Capacity Enhancement Agreement prior to the submittal of an application for building permits pursuant to the approved Recommended Order or within 3 months of the approval of the Recommended Order, whichever occurs first.
- 3) Condition #5 on page 21 of the Recommended Order be amended to read as follows: “The Final Site Plan may only include a maximum building height of 317 feet, inclusive of architectural features or structures.

Pet. Appendix, Minutes, Tab 22, pages 911-912 and Transcript, Tab 24, pages 977-990.

Standard of Review

Where a party is entitled to seek review in the circuit court from a quasi-judicial decision of local government, the circuit court is limited in its review to determining: (1) whether due process of law was accorded; (2) whether the essential requirements of law were observed; and (3) whether the decision is supported by substantial competent evidence. *Florida Power & Light Co. v. City of Dania*, 761 So. 2d 1089 (Fla. 2000); *Haines City Community Development v. Heggs*, 658 So. 2d 523 (Fla. 1995); and *City of Deerfield Beach v. Valliant*, 419 So. 2d 624 (Fla. 1982). The burden of proof is on the petitioner to demonstrate a failure of the local government to comply with these three elements of review. *Phil’s Yellow Taxi Cab Co. of Miami Springs v. Carter*, 134 So. 2d 230, 232 (Fla. 1961).

In order to constitute a departure from the essential requirements of law, there must be a violation of a clearly established principle of law resulting in a miscarriage of justice. *Combs v. State*, 436 So. 2d 93, 95-96 (Fla. 1983). The City’s interpretation and application of its own code is entitled to great deference by the reviewing court. *Verizon Florida, Inc. v. Jacobs*, 810 So. 2d 906, 908 (Fla. 2002).

Analysis of Condo’s Arguments

Argument A: Condo argues that Highwoods did not meet its burden at the de novo quasi-judicial hearing as required under section 2.207 of the City Code and therefore the City departed from the essential requirements of law by adopting the Hearing Officer's Recommended Final Order. Condo claims that Highwoods only presented the transcript from the prior MPB hearing, instead of presenting non-hearsay competent substantial evidence such as sworn witness testimony.

Highwoods responds that section 2.207(1) of the City Code provides that the parties shall have the right to present evidence, to cross examine opposing witnesses, to impeach any witness, and to rebut evidence presented against it during the hearing before a Hearing Officer. However, Highwoods argues, none of those rights obligate a party to take those steps to meet the burden of coming forward and nothing in section 2.207 of the City Code prevents hearsay evidence from satisfying the burden of coming forward, especially given that a Hearing Officer must both admit and consider such evidence if it is relevant. Highwoods contends that since a multitude of relevant documents were submitted to the Hearing Officer, it met its evidentiary burden, regardless of whether its evidence was hearsay. Further, Highwoods states that the only prohibition related to hearsay in section 2.207 is the requirement in subpart (6) that hearsay evidence cannot be the sole basis upon which a Hearing Officer renders an opinion.

The Hearing Officer heard four days of testimony from witnesses and argument from counsel as to the effect of the relevant documents, some of which were authenticated, and some of which were part of the records before the MPB. The Hearing Officer also told Highwoods to give additional thought as to whether Highwoods wanted to rely solely upon the record from the MPB hearing as that was not the normal course. Whereupon Highwoods still decided to rely upon such record and also stressed that the record included City Staff reports. The Hearing

Officer was aware that he could not rely solely on hearsay evidence as discussed in his Recommended Final Order. The Hearing Officer's Recommended Final Order contained 22 pages of background facts, applicable law, detailed findings of fact and conclusions of law and included a thorough review of the Master Plan amendment in accordance with all applicable sections of the City Code, the Land Development Code, and the Growth Management Plan. Therefore, the record does not reveal that hearsay evidence was the sole basis for the Hearing Officer's findings and recommendation.

This Court concurs with Highwoods in its Response that there was no departure from the essential requirements of law, specifically under section 2.207 of the City Code. In general, a quasi-judicial hearing meets basic due process requirements if parties are provided notice of hearing and opportunity to be heard. The quality of due process required in a quasi-judicial hearing is not the same as that to which a party to a full judicial hearing is entitled, and such hearings are not controlled by strict rules of evidence and procedure. *Seminole Entertainment, Inc. v. City of Casselberry*, 811 So. 2d 693, 696 (Fla. 5th DCA 2001); *Lee County v. Sunbelt Equities, II, Ltd. Partnership*, 619 So. 2d 996, 1002 (Fla. 2d DCA 1993); *Jennings v. Dade County*, 589 So. 2d 1337, 1340 (Fla. 3d DCA 1991); *Hadley v. Dept. of Administration*, 411 So. 2d 184, 187 (Fla. 1982); and *Florida Public Service Commission v. Triple A Enterprises, Inc.*, 387 So. 2d 940, 943 (Fla. 1980).

Argument B: The City departed from the essential requirements of law by adopting the Hearing Officer's Recommended Final Order which, on its face, reflected that approval of the Master Plan did not comply with the City's Land Development Code and Growth Management Plan as required by the City Code. The City departed from the essential requirements of law by

conditionally approving the Master Plan application and leaving certain matters for consideration during the Final Site Plan review process.

Section 2.209 of the City Code provides that the City Council may adopt the hearing officer's recommended order, adopt the recommended order with changes, or direct staff to prepare a revised order. In the instant case, the City Council decided to adopt the recommended order with changes and provided reasons for the changes made as documented in the minutes and transcript from the hearing held on September 8, 2008. Further, as provided under section 65.334 of the City Code, the City Council had three options when considering Highwoods' application: approve the application, approve the application with conditions, or deny the application. Accordingly, the City Council did not depart from essential requirements of law when it adopted the recommended order with changes that included specific conditions. Lastly, the City did not depart from the essential requirements of law by conditionally approving the Master Plan application and leaving certain matters for consideration during the Final Site Plan review process as provided under section 65.342 of the City Code.

Argument C: The City departed from the essential requirements of law in approving the height increase for the proposed building and the City's decision to approve a 317-foot height was not supported by competent substantial evidence in the record.

As Highwoods pointed out in its Response, the Hearing Officer stated in his Recommended Order that the reduction of the maximum height requested in the Master Plan review application to 295 feet was based upon the height limitation the City imposed when considering the proposed development of a similarly situated piece of property at the southwest corner of Lake Eola. Subsequently, the City increased the maximum allowable height for that property to 317 feet before it voted on the Master Plan review application of Highwoods.

Accordingly, Highwoods argues that the City was compelled to increase the maximum height for the Highwoods property to follow the Hearing Officer's reasoning that the height limitation applicable to the Highwoods property be consistent with the height allowed by the City for development on the similarly situated property. At the hearing on September 8, 2008, the City Council discussed at great length this reasoning as to the building height issue in accordance with section 2.209(2) of the City Code. Thus, the City did not depart from the essential requirements of law in approving the increase in the building height.

Also, Condo argues that the City's approval of the increase from 295 to 317 feet for the similarly situated building was based upon new evidence not allowed per section 2.209(2) of the City Code. This argument is without merit as this information does not equate to new evidence such as additional witness testimony or documents. The City Code does not prohibit the City Council from considering its own rulings in other relevant matters. Importantly, all issues discussed at the City Council hearings addressing the amendment to the Master Plan were related to the Recommended Final Order that incorporated the prior Staff Reports and the City Council was very careful not to allow consideration of new evidence.

Argument D: The City departed from the essential requirements of law because it created an unlawful procedure not authorized in the Code by delegating a non-delegable duty to City Staff to review the Final Site Plan and failing to follow the requirements of the City Code with respect to consideration of Master Plan amendments.

There is no provision in sections 65.342- 65.345 the City Code that prohibits review of the Final Site Plan by City Staff in lieu of review by the MPB and City Council. Therefore, the City did not depart from the essential requirements of law by providing that the Final Site Plan would be reviewed by City Staff. Further, at the September 15, 2008 hearing, the City

thoroughly discussed, under condition one, that the reason for this deviation from the Hearing Officer's Recommended Final Order was because review by the MPB and City Council for additional information is inconsistent with normal procedures as established by the City's Land Development Code. Therefore, the City complied with section 2.209(2) of the City Code by providing its reason for deviating from the Hearing Officer's Recommended Final Order.

Argument E: The City departed from the essential requirements of law when it reviewed the amendment to the Master Plan that did not include the entire 3.467 acres of impacted property, thus it lacked sufficient information for evaluation by City Staff or for consideration by the Municipal Planning Board. Further, Condo argues that the amendment made changes to other portions of the Master Plan not included in the application.

As Highwoods in its Response points out, per section 65.342 of the City Code, the Final Site Plan review process is intended to be at a level of detail where everything on the site is shown in relation to other buildings and improvements on site, as well as the surrounding property, and specific information concerning the nature and intensity of the land use is required. Consequently, the City's decision to defer consideration on certain Code related issues until the Final Site Plan review process was entirely consistent with the plain language and intent of the Code.

Additionally, as recognized by the Hearing Officer, the Code does not specifically address whether a portion of an existing approved Master Plan may be considered for amendment in isolation from the remainder of the Master Plan area:

Consideration of a proposed amendment for a portion of an existing approved Master Plan is not forbidden by the existing Land Development Code provisions. While it would assure a more effective evaluation of impacts resulting from a proposed amendment if all areas within the Master Plan Area that may be impacted by the amendment were included in the application, this requirement is not found within the Code. It is, therefore, necessary to consider the application

as submitted and make a determination of whether compliance with all the requirements for Master Plan approval process is met and whether an approval with conditions is possible.

While impacts to portions of the Master Plan area not within the 1.4 acre boundary will occur and are not shown in the submittals, this deficiency can be overcome during the Final Site Plan review process by requiring that the impacts be identified and addressed adequately during that review.

Pet. Appendix, Tab 73, ¶ 8 on pages 2121, 2126, & 2127.

The Hearing Officer accurately assessed the content of the Code, and Condo has not cited any provision of the Code or other applicable law to contest his finding.

Additionally, the Hearing Officer reached a conclusion of law and recommended a condition for development consistent with section 65.334 of the City Code which allows for conditional approval of Master Plan applications, and sections 65.342 and 65.344 of the City Code, which provide for further consideration of development conditions during the Final Site Plan review process. Consequently, the City by allowing the application to go through the quasi-judicial process without requiring inclusion of all the acreage subject to the Master Plan, did not depart from the essential requirements of law. *See City of Jacksonville Beach v. Marisol Land Development, Inc.*, 706 So. 2d 354, 355 (Fla. 1st DCA 1998) (finding that local governments have primary jurisdiction to consider land use policy and compliance).

Argument F: The City departed from the essential requirements of law because educational public facilities were not adequate to serve the proposed Master Plan amendment and there existed no competent substantial evidence to reflect that the requirements of section 65.336 of the City Code had been met. Specifically, Condo argues that the City departed from the essential requirements of law because a Capacity Enhancement Agreement between the

Orange County Public Schools (“OCPS”) and Highwoods was not in place at the time of the City Council hearing.

This Court concurs with Highwoods in its Response that the need for a Capacity Enhancement Agreement arises out of the Interlocal Agreement regarding School Capacity between Orange County, OCPS, and the City of Orlando. However, language of the Interlocal Agreement does not support Condo’s position. Specifically, Part 4 of the Interlocal Agreement contains the following:

Upon receipt of a final decision from the OCSB, the Local Government will process the rezoning/comprehensive plan amendment in accordance with its adopted schedules and procedures. Decision by the OCSB does not bind the Local Government or its agents to approve or deny the Rezoning or Comprehensive Plan Amendment report merely because school capacity is or is not available.

Pet. Appendix, Tab 3, Exhibit K, pages 714.

The plain language of the Interlocal Agreement states that the Orange County School Board’s decision does not bind the City to approve or deny Highwoods’ Master Plan application. Therefore, the Interlocal Agreement was not intended to prevent the City from conditionally approving the Master Plan application in conformity with section 65.334 of the City Code. Furthermore, despite the plain language of the Interlocal Agreement stating that capacity decisions do not control the City’s decisions, the City nonetheless conditioned final development approval on receipt of a Capacity Enhancement Agreement. For these reasons, Condo cannot establish that the City’s decision departs from the essential requirements of law.

Argument G: Condo argues that there was no competent substantial evidence to support that the City’s decision complies with Growth Management Plan Transportation Policies 1.8.11 and 1.8.13. In the Recommended Final Order, the Hearing Officer found as follows:

No pedestrian safety enhancements along E. Robinson Street are proposed to mitigate for the relocation of 37 parking spaces from the south side of E. Robinson

Street to the north side of E. Robinson Street. The Settlement Agreement that governs the entire Master Plan area requires that such mitigation measures be considered during Final Site Plan approval for the office building to be constructed east of the existing 14-story building.

Pet. Appendix, Tab 73, ¶ 29 on page 2124.

This Court concurs with Highwoods that based on this finding of fact, the Hearing Officer's recommended approval of the Master Plan was conditioned on the requirement that "the Final Site Plan submittal shall clearly show all impacts to Master Plan areas within and outside the 1.4 acre amendment area." With this condition in place, the safety enhancements required to mitigate the movement of 37 parking spaces within the Master Plan from one side of the street to the other would be addressed. Additionally, as to other traffic concerns, the City's Staff Report included, for approval of the Master Plan application, an express condition that the project development remain subject to the concurrency requirements found in Chapter 59 of the City Code that addresses extensive traffic impact concerns. Consequently, pedestrian safety enhancements and other traffic concerns would be addressed in a manner consistent with the intent and provisions of the City Code. Therefore, Condo's argument fails given the Hearing Officer's findings of fact and the conditions included in the City's decision.

Argument H: There was no competent substantial evidence to support compliance with section 60.117 of the Land Development Code addressing traffic design standards as required by the City Code.

This Court concurs with Highwoods that under section 65.335 of the City Code when assessing a Master Plan application, the City shall only consider the purpose and intent of the Code, rather than the specific applicable provisions. Further, the City's decision does contain conditions on Final Site Plan approval that would address the traffic issues raised by Condo. The

Hearing Officer specifically incorporated all conditions from the City's Staff Report that did not contradict his own conditions. As such, the Staff Report conditions concerning vehicular access, pedestrian circulation, driver's and pedestrian's clear sight distances, concurrency, and all other conditions not in conflict with the conditions of the Hearing Officer and City Council, must be resolved during Final Site Plan review before development will be allowed as required under sections 65.342 through 65.345 of the City Code. For these reasons, Condo's argument that there is no competent substantial evidence to support findings concerning specific provisions of the Code is meritless.

Based on the foregoing, this Court finds that 1) due process was accorded to the parties throughout the Master Plan Review process to date and in compliance with the governing Code provisions; 2) the essential requirements of law were followed by the Hearing Officer and the City Council, including adherence to the governing Code provisions; and (3) the decisions by both the Hearing Officer and the City Council were supported by substantial competent evidence. Therefore, it is hereby **ORDERED AND ADJUDGED** that Condo Developer, LLC's Petition for Writ of Certiorari is **DENIED**.

DONE AND ORDERED in Chambers at Orlando, Orange County, Florida, this 3rd day of October, 2011.

/S/
ALICIA L. LATIMORE
Circuit Court Judge

/S/
A. THOMAS MIHOK
Circuit Court Judge

/S/
JANET C. THORPE
Circuit Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. mail to: **H. Ray Allen, II, Esquire, Joseph H. Lang, Jr., Esquire, and Erin E. Banks, Esquire**, Carlton Fields, P.A., Post Office Box 3239, Tampa, Florida 33601-3239; **Scott A. McLaren, Esquire, Landis V. Curry, III, Esquire, and Eric E. Page, Esquire**, Hill, Ward & Henderson, P.A., 101 E. Kennedy Blvd., Suite 3700, Tampa, Florida 33602; and **Kyle Shephard, Esquire and Karen Z. Consalo, Esquire**, City of Orlando Office of Legal Affairs, 400 South Orange Avenue, Orlando, Florida 32802-4990 on this 4th day of October, 2011.

/S/ _____
Judicial Assistant