

IN THE CIRCUIT COURT FOR THE SIXTEENTH JUDICIAL CIRCUIT  
IN AND FOR MONROE COUNTY, FLORIDA

FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION, on  
behalf of the BOARD OF TRUSTEES OF  
THE INTERNAL IMPROVEMENT FUND,

Plaintiff,

Case No: CAP95-165

vs.

EVERETT G. WEST, et .al.

Defendants.

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**PLAINTIFF'S MOTION FOR CLARIFICATION**

Plaintiff, State of Florida Department of Environmental Protection ("Department") moves this court for clarification of its April 9, 2007 Order in Limine ("Order"). In support of the granting of this motion the Department states:

1. Paragraph eight (8) of the Order states in part, that "[t]he parties may not raise by testimony, nor make any statements to the jury, regarding the effect of any County or State enactment or regulation, promulgated, enacted or amended after February 8, 1982..."

Paragraph 8 does not address whether Plaintiff's experts may consider the effect *federal* regulations may have on the market value of the property. Plaintiff requests the following clarifications based on paragraph 8:

- a. Can Plaintiff's experts consider and apply federal regulations when formulating their opinions? The opinions in question include, but are not limited to: land planning and market value of the subject properties.
- b. If Plaintiff's experts may consider and apply federal regulations in formulating their opinions:

- i. Are there any restrictions as to the effective date of said regulations?
- ii. If there are date restrictions, what are those dates?

2. In addition, the Order's footnote 8 states, in part, that "[t]he parties' comparable sales may not include transactions that are affected in any way by any restriction on land use that were not part of the zoning regulations applicable to North Key Largo properties on February 8, 1982."

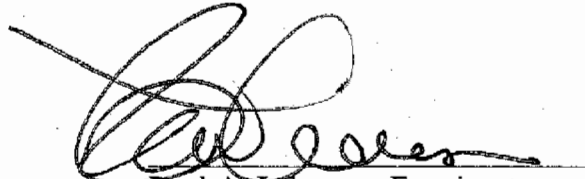
Plaintiff requests clarification of the portion of footnote 8 cited above.

3. Plaintiff's experts are unable to proceed in their evaluation of the subject properties without clarification of the above matters.

WHEREFORE the Department moves this court for an order:

- a. Clarifying those portions of paragraph 8 and footnote 8 cited above; and,
- b. Extending the time by which appraisals must be exchanged from September 4 until October 2, 2007.

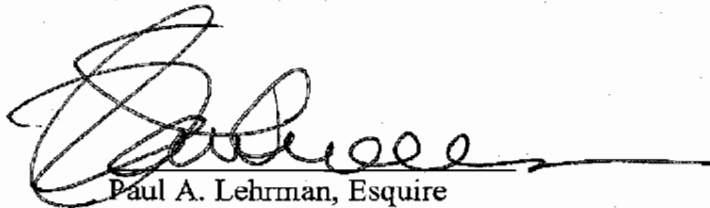
Respectfully submitted this 27 day of July, 2007.



Paul A. Lehrman, Esquire  
Assistant Attorney General  
Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U.S. Mail to James S. Mattson, P.A., Post Office Box 586, Key Largo, FL 33037 and Andrew M. Tobin, Esquire, P.O. Box 620, Tavernier, Florida 33070 on this 27 day of July, 2007.

A handwritten signature in black ink, appearing to read "Paul A. Lehrman", with a long horizontal flourish extending to the right.

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