

**IN THE DISTRICT COURT OF APPEAL OF FLORIDA
THIRD DISTRICT**

CASE NO. 3D07-1603

**THOMAS F. COLLINS, et al.,
Appellants,**

vs.

**MONROE COUNTY, a Political Subdivision
of the State of Florida,**

Appellee, and

The STATE OF FLORIDA,

Third-Party Appellee.

L. T No.: CA-M-04-379

NOTICE OF SIMILAR CASE PENDING BEFORE THIS COURT

1. Appellants give notice of a similar case pending before this Court, *Shands, et al., v. City of Marathon*, 3D07-3288. The *Shands* appeal is being briefed by Steven Gieseler, Esq., and Michael T. Burke, Esq. The City's Answer Brief is due May 29, 2008.

2. As in *Collins*, the *Shands* case is a regulatory taking case based on Monroe County's land development regulations (that were inherited by the City of Marathon when it incorporated in 1997), where the Landowners relied on the existence of the County/City Beneficial Use Determination ("BUD") administrative procedure to "ripen" the Landowners' regulatory taking claim, pursuant to *Williamson County Regional Planning Comm'n v. Hamilton Bank of Johnson City*, 473 U.S. 172, 105 S. Ct. 3108, 87 L. Ed. 2d 126 (1985). This BUD-ripening procedure was required by this Court in *City of Key West v. Berg*, 655 So. 2d 196 (Fla. 3rd DCA 1995), *review denied*, 663 So. 2d 629, 1995 Fla. LEXIS 1793 (Fla. 1995). Both *Collins* and *Shands* were dismissed by the same Circuit Judge.

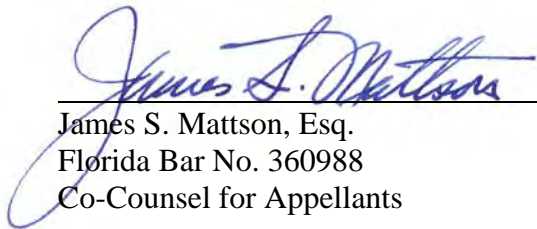
3. A third case has been dismissed by a different Monroe County Circuit Judge, *Sutton v. Monroe County*, on the same grounds as *Shands*. A Motion for Rehearing in *Sutton* is set for next Monday (May 9, 2008), and is expected to be denied. *Sutton* is represented by the undersigned.


4. There are two additional cases, *Beyer v. City of Marathon* and *McCole v. City of Marathon*, pending before the Circuit Judge who dismissed *Collins* and *Shands*, that are based on the same BUD-ripening process as the others listed above, and it would be surprising if they were not dismissed as well. *Beyer* and *McCole* are represented by the undersigned.

5. In March 2008, the undersigned had twenty-two BUD hearings before a Special Master. These 22 Landowners are relying on the BUD process as a ripening procedure that is required before a regulatory taking action accrues (and a statute of limitation starts to run).

6. To the best of our knowledge, there is no similar administrative proceeding in any Florida county or municipality outside of Monroe County.

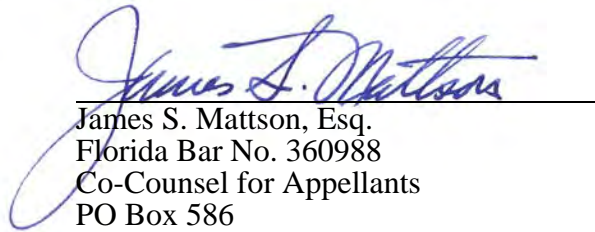
The foregoing considered, we respectfully urge this Court to consolidate the *Collins* appeal, 3D07-1603, with the *Shands* appeal, 3D07-3288, for oral argument purposes only, and that counsel be given more than 10 minutes per side for argument. A copy of this Notice is being provided to counsel in Case No 3D07-3288.


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Florida Bar No. 184825
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CERTIFICATE OF SERVICE

I certify I served copies of the foregoing by facsimile transmission and first class mail, postage prepaid, on **Robert Shillinger, Esq.**, Chief Assistant Monroe County Attorney, and **Derek Howard, Esq.**, Assistant County Attorney, P.O. Box 1026, Key West, FL 33041-1026, **Stephen J. Moore, Esq.** and **Elizabeth A. Moran, Esq.**, 1500 Traders on Grand Bldg, 1125 Grand Blvd, Kansas City, MO 64106-2511, and **Jonathan A. Glogau, Esq.**, Special Counsel, PL-01 The Capitol, Tallahassee, FL 32399-1050, with a courtesy copy sent by e-mail, this 8th day of May 2008.


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