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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DALK LAND, LP.,

Petitioner,
vs.

Case Nos. 17-3578
20-2039

MONROE COUNTY PLANNING COMMISSION,

Respondent,

and

PETER G. AND ELIZABETH GIAMPAOLI,
INDIVIDUALLY AND AS TRUSTEES OF THE
GIAMPAOLI FAMILY TRUST,

Intervenors.

**INTERVENORS' RESPONSE IN OPPOSITION TO DALK'S
MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO INTERVENORS'
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Intervenors, Peter G. Giampaoli and Elizabeth C. Giampaoli, individually and as trustees of the Giampaoli Family Trust by and through undersigned counsel, hereby files its response in opposition to Dalk Land's *Motion for Extension of Time to File Response to Intervenors' Motion for Partial Summary Judgment filed on October 7, 2020* (DE 10/14/2020). ("Motion").

ARGUMENT

In typical fashion, forty-five (45) minutes before the deadline for filing their response to Intervenors' Motion for Partial Summary Judgment, Petitioner send a perfunctory email seeking consent to allow them to file their response on October 21, 2020.

Intervenors' counsel was willing to agree to an extension to time of 1 day to allow Petitioner to file its response. Intervenors' objection to any further delay in Petitioner's filing a response is based on the fact that, pursuant to this Division's Scheduling Order,

all motions, including dispositive motions and motions in limine, as well as the exchange of witness lists and exhibits lists and making the exhibits available was due on Friday, October 16, 2020.

In essence, Petitioner seeks to avoid disclosing the basis for its response to Intervenor's Motion for Partial Summary Judgment until after Intervenor has been locked in to their witness list and exhibit list pursuant to the scheduling order.

Petitioner's claim that it could not file a timely response to Intervenor's Motion for Partial Summary Judgment is a clearly transparent effort to postpone this Division's resolution of Intervenor's potentially dispositive motion until the eve of final hearing. Petitioner has been a virtual factory for producing motions for partial summary judgment over the last ten (10) days, and yet it represents to this Division that it does not have the time to prepare a response to Intervenor's only pending motion for partial summary judgment. The time period set forth in this Division's Scheduling Order are the very time periods suggested by the Petitioner and adopted by this Division.

Intervenor is prejudiced by having to disclose its witness and exhibit list pursuant to this Division's Scheduling Order on Friday, October 16, 2020 without having the ability to receive and analyze Petitioner's response to the Intervenor's dispositive Motion for Partial Summary Judgment.

Petitioner's request is equally disturbing since this Division has expressed its intent to postpone ruling on pending motions for partial summary judgment until all responses are submitted. Under these circumstances, this Division either postpones the hearing on the pending motions for partial summary judgment or goes forward with the hearing on the motions without Intervenor having the ability to have seen Petitioner's response to Intervenor's Motion for Partial Summary Judgment.

WHEREFORE, Intervenor respectfully requests this Division to deny Petitioner's request for a seven day extension to file its response to Intervenor's Motion for Partial Summary Judgment and direct Petitioner to file its response no later than 4:30 p.m.

EDT, Thursday, October 15, 2020. Petitioner's last minute tactical effort to seek an advantage on the eve of the final hearing should be seen for what it is and rejected by this Division.

Respectfully Submitted,

<i>Co-Counsel for Intervenors</i> ANDREW M. TOBIN, P.A. P.O. Box 620 Tavernier, Florida Telephone: (305) 852-3388 <i>By: /s/ Andrew M. Tobin, Esq.</i> _____ Andrew M. Tobin, Esq. Florida Bar No. 184825 Primary: tobinlaw@terranova.net Alternate: tobinlaw2@gmail.com	<i>Co- Counsel for Intervenors</i> JONES FOSTER P.A. 505 South Flagler Drive, Suite 1100 West Palm Beach FL 33402-3475 Telephone: (561) 659-3000 Fax: (561) 650-5300 <i>By: .../s/ Robert W. Wilkins</i> _____ Robert W. Wilkins, Esq. Florida Bar No. 0578721 Primary: rwilkins@jonesfoster.com ; cstephens@jonesfoster.com
F. PATTERSON WILLSEY, ESQ., fpwillsey@yahoo.com .	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of October, 2020, the foregoing document was filed using the DOAH eALJ portal which will then send a copy to all on its service list.

By: .../s/ Robert W. Wilkins

Robert W. Wilkins, Esq.
Florida Bar No. 0578721
Primary: rwilkins@jonesfoster.com;
cstephens@jonesfoster.com

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