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**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARING**

DALK LAND, LP,
Petitioner,
vs.

MONROE COUNTY PLANNING
COMMISSION,
Respondent.
and

PETER G. GIAMPAOLI AND
ELIZABETH C. GIAMPAOLI, etc.
Intervenors.

Case No. 18-005255

**INTERVENORS' MOTION FOR CLARIFICATION
AND/OR TO MODIFY THE FINAL ORDER**

Intervenors, Peter G. Giampaoli and Elizabeth C. Giampaoli, individually and as trustees of the Giampaoli Family Trust (hereafter "Giampaoli") by and through their undersigned attorney, respectfully move for clarification and/or to modify the Final Order and states as follows:

1. The Final Order states in part:

The status quo ante is hereby restored, which means that the July 10, 2018, stop-work order is once again in full force and effect, halting further progressive work on the SFR unless and until the Landowner, in accordance with the stop-work order, corrects the deficiencies detected by the Building Official on review of the First EC. (Final Order, p. 40, ¶-3)

2. Pursuant to Section 122-3 (e) of the Monroe County Code (MCC) the Building Official has discretion to determine the proper relief when confronted with a deficiency in the elevation certificate. ("Failure to submit the survey or failure to make the corrections required hereby shall be causes to issue a stop-work order for the project.") See also, § 6-55 (MCC) (Building Official has authority and duty to "administer, interpret, and enforce" the Florida Building Code; floodplain management regulations, issue stop work orders, etc.).

3. The Final Order does not define "all progressive work" nor does it take into consideration that the home is 95% complete (rough electrical, plumbing, mechanical, a/c ductwork, interior framing, walls and ceilings dry walled, decorative molding in progress, etc) and that a certain amount of "work" is necessary to secure the house for safety and to prevent vandalism, spoilage of interior improvements from mildew, moisture, rust, etc.

4. Specifically, Giampaoli seeks clarification or modification of the Final Order to 1) install front and rear doors; 2) install air conditioning units to prevent mildew, rot and rust; and 3) to install railings around the upper decks.

5. The Building Official is in the best position to determine the scope of the stop work order and what additional work is necessary for safety reasons, to prevent vandalism and to prevent spoilage of existing interior improvements.

6. Undersigned counsel is authorized to state as follows: i) Monroe County is neutral with respect to the motion; and ii) Dalk objects.

Based on the foregoing, Intervenor Peter G. Giampaoli and Elizabeth C. Giampaoli, individually and as trustees respectfully pray for the entry of an order that grants the foregoing relief.

ANDREW M. TOBIN, P.A.

s/ Andrew M. Tobin, Esq.

by: Andrew M. Tobin, Esq.

Florida Bar No. 184825

Counsel for Intervenor

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day April 2019, the foregoing document was served by Email upon the following persons: **IRAIN J. GONZALEZ, ESQ.,** and docservice@fowler-white.com, **STEVEN WILLIAMS, ESQ.,** and **PETER MORRIS, ESQ.,** williams-steve@monroecounty-fl.gov, morris-peter@monroecounty-fl.gov, proffitt-maureen@monroecounty-fl.gov; and **PETER RYSMAN, ESQ.,** peter@rysmanlaw.com, kim@rysmanlaw.com; and **F. PATTERSON WILLSEY, ESQ.,** fpwillsey@yahoo.com.

s/ Andrew M. Tobin, Esq.
Andrew M. Tobin, Esq.

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