



LAKE COUNTY
FLORIDA
COUNTY ATTORNEY'S OFFICE

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MEMORANDUM

TO: Board of County Commissioners

FROM: Sanford A. Minkoff, County Attorney 

DATE: January 11, 2013

RE: Martin D. Smith vs. Lake County, the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida and the Department of Environmental Protection, a subdivision of the State of Florida

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This memorandum is to inform you that the above-referenced case has been resolved in favor of Lake County and the State of Florida. The County Attorney's Office handled this case which involved a dispute concerning title to a half-mile segment of Swift Road (County Road 4-7798B) bordering the Lower Wekiva River Preserve State Park (hereinafter "the property").

The plaintiff purported to purchase the property through various real estate transactions dating back to 2005. In March of 2009, the plaintiff named the State and the County in an Amended Complaint for inverse condemnation and other relief, in which he asserted title to the property and requested compensation, attorney's fees and costs for inverse condemnation. The plaintiff claimed that the County had driven County vehicles over the property, entered it without his permission, claimed ownership of the property and generally deprived him of all beneficial use of the property.

The County filed a Motion for Summary Judgment in Circuit Court, contending that Swift Road and the segment of Swift Road at issue has been dedicated to the public pursuant to Section 95.361(2) of the Florida Statutes, entitled "Roads presumed to be dedicated".

On October 20, 2010, the Circuit Court granted Lake County's and the State's Motions for Summary Judgment, and on December 13, 2010, the Circuit Court entered a Final Judgment on behalf of Lake County and the State.

On January 12, 2011, the plaintiff filed a Notice of Appeal to the Fifth District Court of Appeal (DCA). On December 4, 2012, the 5th DCA issued its decision affirming the Circuit Court's Final Judgment.

The 30-day period allotted to the plaintiff/appellant to file any further appeals has passed without any such appeal being filed; therefore, we are closing our file. If you have any questions, please feel free to contact me at any time.

SAM/EH/mw
1906.000

cc: David Heath, County Manager (via email only)
Jim Stivender, Public Works Department Director (via email only)
Lori Conway, Road Operations Division Manager (via email only)
Patti Harker, Right of Way Manager (via email only)
Dennis Warren, Road Operations Superintendent (via email only)
Randy Dean, Area Maintenance Supervisor (via email only)