

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

APPELLATE DIVISION (CIVIL): AY  
CASE NO: 502015CA013015XXXXMB

VILLAGE OF WELLINGTON,  
Appellant,

v.

JEFFREY P. PRUDDEN,  
Appellee.

Opinion filed: **JUN 30 2016**

Appeal from Village of Wellington Code Enforcement Special Magistrate Hearing;  
Magistrate Rafael Suarez-Rivas

✓ For Appellant: Claudio Riedi, Esq.  
1111 Brickell Avenue, Suite 2200  
Miami, Florida 33156  
criedi@lsrcf.com

Laurie Stilwell Cohen, Esq.  
12300 Forest Hill Blvd.  
Wellington, Florida 33414  
lcohen@wellingtonfl.gov

✓ For Appellee: William Wedge, Esq.  
12230 Forest Hill Blvd., #200  
Wellington, Florida 33414  
bill@wedgeassociates.com

Appellant, Village of Wellington (“Wellington”) appeals a code enforcement order in which the Special Magistrate found that Appellee, Jeffrey Prudden (“Prudden”), was not in violation Wellington’s Land Development Regulation (“LDR”) 16.3.5 because section 640.50, Florida Statutes exempted Prudden’s property from municipal regulation. We agree with Wellington’s argument that the Special Magistrate’s decision departed from the essential requirements of the law and was not supported by competent, substantial evidence, because the activity of filling and grading does not fall under the exemption of section 604.50, Florida Statutes. We thus we reverse and remand this matter back to the Special Magistrate to apply Wellington’s LDR 16.3.5 and determine whether Prudden’s actions constituted a violation.

Prudden owns a 20-acre lot located in the Village of Wellington, a municipality in Palm Beach County, Florida. Prudden began leasing this property for cattle grazing on January 1, 2015. In or around January 2015, Prudden and his lessee cleared the property and installed a fence, and filled and graded a portion of the property in creating a pond for drinking water for the cows.<sup>1</sup> On February 18, 2015, Wellington issued a Notice of Violation to Prudden for violating, *inter alia*, LDR Section 16.3.5, which prohibits filling and grading without a fill permit. Such violation pertained to Prudden’s actions of digging the pond and filling in another portion of the property with the displaced soil. A code enforcement hearing was held, after which the Special Magistrate determined that section 604.50, Florida Statutes, exempted Prudden’s entire property from municipal regulation, “as long as it is solely used for bona fide agricultural purposes.” The Special Magistrate thereafter issued the Amended Order Finding No Violation (“Amended Order”), from which Wellington filed the instant appeal.

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<sup>1</sup> Around February or March, 2015, Prudden and his lessee placed approximately nine to twelve cows on the property.

Where a party is entitled to seek review of an administrative action in the circuit court, the circuit court must determine: (1) “whether procedural due process is accorded,” (2) “whether the essential requirements of the law have been observed,” and (3) “whether the administrative findings and judgment are supported by competent substantial evidence.” *City of Deerfield Beach v. Vaillant*, 419 So. 2d 624, 626 (Fla. 1982).

Wellington contends that the Special Magistrate departed from the essential requirements of the law by finding that the activities of filling and grading on land used for bona fide agricultural operations are exempt from local regulation under Florida Statute section 604.50. Thus, the Court must determine whether section 604.50, Florida Statutes, can be reasonably interpreted to exempt from municipal regulation clean fill activities—or all activities for that matter—on land used for agricultural purposes. A court’s interpretation of a statute begins with the actual language of the statute. *Brown v. City of Vero Beach*, 64 So. 3d 172, 174 (Fla. 4th DCA 2011) (citation omitted). “When a statute is clear and unambiguous, courts will not look behind the statute’s plain language for legislative intent or resort to rules of statutory construction to ascertain intent.” *Id.* (quoting *Lee Cnty., Elec. Coop., Inc. v. Jacobs*, 820 So. 2d 297, 303 (Fla. 2002)). Accordingly, a statute’s “plain and ordinary meaning must control.” *State v. Burris*, 875 So. 2d 408, 410 (Fla. 2004) (citing *Lee Cnty., Elec. Coop., Inc.*, 820 So. 2d at 303).

Section 604.50, Florida Statutes provides in relevant part:

(1) Notwithstanding any provision of law to the contrary, any nonresidential farm building, farm fence, or farm sign that is located on lands used for bona fide agricultural purposes is exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations. . . .

(emphasis added). On its face, section 604.50 is unambiguous: it exclusively protects

nonresidential farm buildings, farm fences, and farm signs from municipal regulations like Wellington's LDRs. There is no language within section 604.50 that states that any and all activities performed on lands used for bona fide agricultural purposes are exempt from municipal and county regulation. Accordingly, we find that the legislature clearly did not intend for anything other than those three specific types of structures to be exempt from such regulation.<sup>2</sup>

Because the Special Magistrate unreasonably interpreted section 604.50, Florida Statutes, he subsequently failed to apply LDR Section 16.3.5, which he was required to evaluate in determining whether Prudden's actions, i.e. clearing land, digging a pond for the cow's drinking water and filling another portion of the property, constituted a violation. Thus, we find that the Special Magistrate departed from the essential requirements of the law. *See Haines City Cmty. Development v. Heggs*, 658 So. 2d 523, 530 (Fla. 1995) (A tribunal departs from the essential requirements of the law if its decision violates "a clearly established principle of law resulting in a miscarriage of justice."); *Las Olas Tower Co. v. City of Fort Lauderdale*, 742 So. 2d 308 (Fla. 4th DCA 1999) ("[W]hen an agency's construction of a statute amounts to an unreasonable interpretation or is clearly erroneous, it cannot stand.").

Wellington further contends that the Special Magistrate's finding that "filling and grading" constitutes a "nonresidential farm building, farm fence, or farm sign" under section 604.50, Florida Statutes, was not supported by competent substantial evidence. We find that this

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<sup>2</sup> In the Amended Order, the Special Magistrate relied upon Florida Attorney General Opinion 2013-01 in concluding that section 604.50 exempts the property in question from the municipal regulation at issue, as long as the property is solely used for a bona fide agricultural purpose. The opinion does not stand for this proposition; rather, the opinion states that "the Town of Loxahatchee Groves has no authority to enforce 'any county or municipal code or fee' provision on any nonresidential farm building, farm fence, or farm sign." *Opp. Att'y Gen. Fla. 2013-01* (2013) (quoting § 604.50, Fla. Stat. (2011) (emphasis added)). The opinion does not state that the *land* or *property* upon which those structures are located is exempt from municipal regulation under section 604.50, Florida Statutes, nor does it state that activities such as filling and grading soil to create a pond on that land are exempt.

is simply a reframing of its argument addressed *supra*; however, to the extent that the Amended Order can be construed as making a factual finding that filling and grading constitutes a “non-residential farm building, farm fence or farm sign,” we agree that there is no competent substantial evidence present in the record to support such a finding. *See Padron v. State, Dep’t of Env’tl. Prot.*, 143 So. 3d 1037, 1041 (Fla. 3d DCA 2014) (“an appellate court affords great weight to an administrative agency’s construction of a rule that the agency is charged with enforcing and interpreting, but the court may depart from that construction if it is clearly erroneous.”).

Because the Special Magistrate incorrectly determined that section 604.30 exempted Prudden’s property from regulation, there was no determination made as to whether Prudden’s actions constituted a violation of LDR 16.3.5. Accordingly, we REVERSE in part<sup>3</sup> the Special Magistrate’s Amended Order Finding No Violation, and REMAND the case for an evidentiary hearing, if necessary, and to determine whether Prudden’s actions violated Wellington’s LDR 16.3.5.

SASSER, SMALL, and BOORAS, JJ. concur.

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<sup>3</sup> The portions of the Amended Order that are not subject to this appeal remain undisturbed.

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APPELLATE DIVISION (CIVIL): AY  
CASE NO: 502015CA013015XXXXMB

VILLAGE OF WELLINGTON  
Appellant,

Opinion/Decision filed: **JUN 8 0 2016**

v.

Appeal from Village of Wellington Code  
Enforcement Special Magistrate Hearing;  
Magistrate Rafael Suarez-Rivas

JEFFREY PRUDDEN  
Appellee.

Appeal filed: November 19, 2015

DATE OF PANEL: MAY 19, 2016

PANEL JUDGES: SASSER, SMALL, BOORAS

AFFIRM/REVERSE/OTHER: REVERSED IN PART & REMANDED

PER CURIAM OPINION/DECISION BY: PER CURIAM

DATE CONCURRING:	)	DISSENTING:	)	CONCURRING SPECIALLY:	)
	)	With/Without Opinion	)	With/Without Opinion	)
<u>W. Allen</u> 6/24/16	)		)		)
	)		)		)
<u>R. S. Small</u> 6/23/16	)		)		)
	)		)		)
<u>T. B.</u> 6/28/16	)		)		)
	)		)		)