

**ON APPEAL TO THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PINELLAS COUNTY**

**FUEL INVESTMENT &
DEVELOPMENT II, LLC,**

Petitioner,

v.

LOWER TRIBUNAL CASE

NUMBER: 07-31000023

APPEAL: 07-000066AP-88B

**CITY OF ST. PETERSBURG and
CITY COUNCIL OF THE CITY
OF ST. PETERSBURG,**

Respondents,

and

**HISTORIC OLD NORTHEAST
NEIGHBORHOOD ASSOCIATION, INC.,
DOWNTOWN NEIGHBORHOOD
ASSOCIATION, INC., CATHY B. MARTIN
AND JAMES W. MARTIN,**

Intervenors.

ORDER DENYING PETITION FOR WRIT OF CERTIORARI

THIS CAUSE came before this Court on the Amended Petition for Writ of Certiorari filed November 27, 2007. This Court having reviewed the court file, including the Amended Petition for Writ of Certiorari, and the Joint Response by Respondents and Intervenors to Order to Show Cause, and being otherwise advised in the premises,

FINDS AND ORDERS the following:

1. This appellate case was initiated on November 5, 2007, when Petitioner filed its Petition for Writ of Certiorari. The Petitioner subsequently sought leave of court to file an amended petition, and on November 27, 2007, Petitioner filed its Amended Petition for Writ of Certiorari.

2. On January 23, 2008, this Court entered an Order granting the Motion to Intervene filed by the Downtown Neighborhood Association, the Historic Old Northeast Neighborhood Association, Inc., and James W. Martin and Cathy B. Martin, and on February 22, 2008, the Respondents and Intervenors filed a Joint Response by Respondents and Intervenors to Order to Show Cause and Amended Petition for Writ of Certiorari.
3. On March 13, 2008, Petitioner filed a Motion for Extension of Time requesting an additional thirty (30) days to file a reply to the aforementioned joint response, and on March 31, 2008, this Court entered an Order Granting Petitioner's Request for an additional thirty (30) days to file a reply.
4. On April 21, 2008, Petitioner's attorney filed a Motion to Withdraw, and requested an additional thirty (30) days for Petitioner to obtain counsel and file a reply brief, and on September 22, 2008, this Court entered an Order Granting Petitioner's Attorney's Motion to Withdraw and also granting Petitioner an additional thirty (30) days from the date of the Order entered September 22, 2008, to file a reply brief. Petitioner failed to file a reply brief or any other paper subsequent to this last Court order dated September 22, 2008, and on October 24, 2008, the Respondents and Intervenors filed a Joint Motion to Dismiss, or, in the Alternative to Deny the Amended Petition for Writ of Certiorari.
5. This Court has now had the opportunity to consider both the Amended Petition for Writ of Certiorari and the Joint Response filed by the Respondents and Intervenors.
6. The standard of review on a Petition for a Writ of Certiorari is essentially a three-pronged standard. These three prongs are whether procedural due process has been accorded, whether the essential requirements of law have been followed, and whether the underlying decision is supported by competent substantial evidence. Florida Power & Light Company v. City of Dania, 761 So.2d 1089 (Fla. 2000).
7. Here, Petitioner seeks relief from the underlying determination by the City of St. Petersburg disapproving the Petitioner's site plan for development of a Westin hotel and condominium building near downtown St. Petersburg. The proposed development essentially consists of a 23-story mixed use project including hotel rooms, condominium units, related facilities, and approximately 300 parking spaces, all placed on an approximate 0.85 acre parcel of land on the south side of Fifth Avenue North in St. Petersburg.

8. This Court having reviewed the Court file, as indicated above, including Exhibits A – H of the Appendix attached to the Joint Response, determines that the Petitioner has failed to establish that it was not accorded adequate procedural due process, that the essential requirements of law were ignored, or that the decision is not supported by competent substantial evidence. Petitioner's Amended Petition for Writ of Certiorari is therefore denied.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida, this 6TH day of February, 2009.

Original order entered on February 6, 2009 by Circuit Judges Amy M. Williams, J. Thomas McGrady, and Peter Ramsberger.

Copies:

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