

Entitlement to the Exemption

66. The use of the disjunctive “or” after rule 62-330.051(4)(e)1.b. means that, in order to meet the Exemption criteria, the road must have been in existence before January 1, 2002, and then meet *one* of the criteria in rule 62-330.051(4)(e)1.a, 1.b., or 1.c. The road does not have to meet *all* of the three “ownership” criteria in rule 62-330.051(4)(e)1.a, 1.b., and 1.c. *See Fla. Pulp and Paper Ass’n Envtl. Affairs, Inc. v. Dep’t of Envtl. Prot.*, 223 So. 3d 417, 420 (Fla. 1st DCA 2017)(“... the points of entry listed in section 120.56(2)(a) are separated by the disjunctive conjunction ‘or,’ which indicates that they are mutually exclusive alternatives.”); *see also Ellenwood v. Bd. of Arch. and Int. Design*, 835 So. 2d 1269, 1270 (Fla. 2003); *Osceola Cty. Sch. Bd. v. Arace*, 884 So. 2d 1003, 1005 (Fla. 1st DCA 2004); *Dep’t of Bus. Reg. v. Salvation Ltd., Inc.*, 452 So. 2d 65, 67 (Fla. 1st DCA 1984).

67. The evidence establishes that 101st Avenue was in existence before January 1, 2002, and has been publicly used since that time. The evidence establishes that 101st Avenue has been regularly maintained and repaired by the County for more than seven years prior to the Exemption. Thus, the road repairs meet the standards established in section 95.361 and rule 62-330.051(4)(e)1.a.

68. The evidence establishes that the work performed under the Exemption did not realign 101st Avenue or expand the number of traffic lanes of 101st Avenue. Furthermore, the repairs to 101st Avenue included work reasonably necessary to repair and stabilize the road using generally accepted roadway design standards. Thus, the road repairs meet the standards established in rule 62-330.051(4)(e)2.

69. The evidence establishes that the work performed under the Exemption incorporated effective means of stormwater treatment. Thus, the road repairs meet the standards established in rule 62-330.051(4)(e)5.

70. The evidence establishes that the repairs to 101st Avenue did not adversely impound or obstruct existing water flow, cause adverse impacts to