

76. An objective test is used to determine whether a party challenged the agency action for an “improper purpose.” See *Friends of Nassau Cty, Inc. v. Nassau Cty*, 752 So. 2d 42, 51 (Fla. 1st DCA 2000). As established in *Procacci Commercial Realty, Inc. v. Department of Health and Rehabilitative Services*, 690 So. 2d 603 (Fla. 1st DCA 1997):

The use of an objective standard creates a requirement to make reasonable inquiry regarding pertinent facts and applicable law. In the absence of “direct evidence of the party’s and counsel’s state of mind, we must examine the circumstantial evidence at hand and ask, objectively, whether an ordinary person standing in the party’s or counsel’s shoes would have prosecuted the claim.”

*Id.* at 608 n. 9.

77. Whether a party has participated in a proceeding for an improper purpose is a question of fact, and even absent direct evidence of intent, “[i]n determining a party’s intent, the finder of fact is entitled to rely upon permissible inferences from all the facts and circumstances of the case and the proceedings before him.” *Burke v. Harbor Estates Associates, Inc.*, 591 So. 2d 1034, 1037 (Fla. 1st DCA 1991). In that regard, a reviewing judge may look not only at direct evidence of intent, but may also “examine the circumstantial evidence at hand and ask, objectively, whether an ordinary person standing in the party’s or counsel’s shoes would have prosecuted the claim.” *Friends of Nassau Cty, Inc. v. Nassau Cty.*, 752 So. 2d 42, 51 (Fla. 1st DCA 2000).

78. There was no evidence to suggest that Dr. Still has participated in two or more other proceedings involving the County and the repair of 101st Avenue. Thus, the presumption of an improper purpose is not applicable.

79. The second criterion by which to measure “improper purpose” is whether the action was taken primarily to harass or to cause unnecessary delay, for frivolous purpose, or to needlessly increase the cost of securing the Exemption.