

Section 120.595(1)(b), F.S.

The requirements of Section 120.595(1)(b), F.S., have been met and an award of reasonable costs and a reasonable attorney's fee is warranted in this case because:

- A. This proceeding is a proceeding pursuant to Section 120.57(1), F.S. (RO - page 18, paragraph 54; page 19, paragraph 59)
- B. STILL has failed to substantially change the outcome of the proposed or final agency action which is the subject of this proceeding. Therefore, STILL is a "nonprevailing adverse party" as defined by Section 120.595(1)(e)3, F.S.
- C. The ALJ has determined that STILL participated in this proceeding for an improper purpose as set out below.

STILL PARTICIPATED IN THIS PROCEEDING FOR AN IMPROPER PURPOSE

An "improper purpose" is statutorily defined as follows:

"Improper purpose" means participation in a proceeding pursuant to s. 120.57(1) primarily to harass or to cause unnecessary delay or for frivolous purpose or to needlessly increase the cost of litigation, licensing, or securing the approval of an activity.

Section 120.57(1)(e)1, F.S.

The ALJ determined that STILL participated in this proceeding for an improper purpose, when the ALJ expressly found:

82. Dr. Still admitted that 101st Avenue had not been altered in its course due to the exempt road repairs. (Tr. Vol. 2, 339:17-24). He did dispute whether the ROW had shifted from its original course in the years *before* the exempt road repair work.

83. Though he disputed ownership of the 101st Avenue ROW, Dr. Still admitted that he had no evidence that the County does not own the ROW. (Tr. Vol. 2, 352:25-353:10). He further admitted that he did not review section 95.361.