

**14 Fla. L. Weekly Supp. 712a**

**Landlord-tenant -- Public housing -- Termination of subsidy -- Hearing -- Error for hearing officer to go outside record and make own investigation of postal records to determine that tenant of subsidized housing received timely notice of request for information by certified mail**

ALEIDA MARTIN, Petitioner, vs. HIALEAH HOUSING AUTHORITY, Respondent. Circuit Court, 11th Judicial Circuit (Appellate) in and for Miami-Dade County. Case No. 06-642 AP. May 25, 2007. On petition for writ of certiorari to review the decision of the Hialeah Housing Authority. Counsel: Carolina Lombardi, Legal Services of Greater Miami, Inc., for Petitioner. J. Frost Walker, III, for Respondent.

(Before VICTORIA PLATZER, RONALD DRESNICK, and SCOTT M. BERNSTEIN, JJ.)

(BERNSTEIN, J.) The Petition for Writ of Certiorari is granted.

Ms. Martin received subsidized housing through a Section 8 Voucher Program. Her subsidy was terminated when the Hialeah Housing Authority suspected another individual, Mr. Jose Palmares, was living illegally at the unit with Ms. Martin. In an attempt to provide Ms. Martin due process, the Hialeah Housing Authority conducted three separate hearings on Ms. Martin's objections to termination of her subsidy. In the last of these hearings, the Hearing Officer refused to allow Mr. Palmares, or his alleged "real" landlord, to testify. The Hearing Officer determined instead that the only issue was whether Ms. Martin received timely notice of subsidy termination and whether she responded timely with requested information. This might have been fine, if the Hearing Officer had limited her review. After the hearing was concluded, however, the Hearing Officer made her own investigation of the United States Postal Service records and determined that Ms. Martin did receive timely notice by certified mail of a request for information. This was clearly improper.

"[C]ircuit court review of an administrative agency decision, under Florida Rule of Appellate Procedure 9.030(c)(3), is governed by a three-part standard of review: (1) whether procedural due process is accorded; (2) whether the essential requirements of law have been observed; and (3) whether the administrative findings and judgment are supported by competent substantial evidence." *Haines City Community Dev. v. Heggs*, 658 So. 2d 523, 530 (Fla. 1995), (emphasis added); *see also Dusseau v. Metropolitan Dade County Bd. of County Com'rs*, 794 So. 2d 1270, 1275 (Fla. 2001). Each of these prongs is violated when the trier of fact goes outside the record to make findings of fact. The Hearing Officer's findings of facts simply are not supported by competent, substantial evidence actually presented at the hearing in this case. We therefore grant the petition for certiorari and quash the decision of the Hialeah Housing Authority. (PLATZER and DRESNICK, JJ., concur.)