

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2003

MARK AND ANA BUTTERFIELD,

Appellants,

v.

Case No. 5D03-823

DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES,

Appellee.

Opinion filed October 24, 2003

Administrative Appeal from the
Florida Department of Agriculture
and Consumer Services.

Michael R. D'Lugo of Wicker, Smith, O'Hara,
McCoy, Graham & Ford, P. A., Orlando, for Appellant.

Wesley R. Parsons and Jack R. Reiter of
Adorno & Yoss, P. A., Miami, for Appellee.

PER CURIAM.

Mark and Ana Butterfield appeal a final order issued by the Florida Department of Agriculture and Consumer Services, advising them that their citrus trees would be destroyed because the trees were either infected with citrus canker or were located within 1,900 feet of a canker-infested tree. We affirm the Department's order on the authority of Florida Department of Agriculture and Consumer Services v. Haire, 836 So. 2d 1040 (Fla. 4th DCA), review granted, 842 So. 2d 844 (Fla. 2003). See also Kirchgessner v. Fla. Dep't of Agric. & Consumer Servs., 849 So. 2d 410 (Fla. 5th DCA 2003). This affirmance is without prejudice

to seek just compensation for the destruction of the trees having value, or such other relief as may be appropriate. The stay entered by the court is lifted.

AFFIRMED.

PETERSON, PLEUS and ORFINGER, JJ., concur.