

DEPARTMENT OF REVENUE v. SHERATON BAL HARBOUR ASS'N, LTD., 864
So.2d 454, 29 Fla. L. Weekly D25 (Fla.App. 1 Dist. 2003)

District Court of Appeal of Florida,
First District.

DEPARTMENT OF REVENUE, Petitioner,

v.

SHERATON BAL HARBOUR ASSOCIATION, LTD., Respondent.

No. 1D03-3933.

Dec. 18, 2003.

Rehearing Denied Jan. 29, 2004.

Petition for Writ of Prohibition--Original Jurisdiction.

COUNSEL

Charlie Crist, Attorney General, and Martha F. Barrera,
Assistant Attorney General, Tallahassee, for petitioner.

Rex D. Ware and Elizabeth C. Daley of Steel, Hector &
Davis, LLP, Tallahassee, for respondent.

OPINION

PER CURIAM.

The Department of Revenue seeks a writ of prohibition to prevent the Division of Administrative Hearings ("DOAH") from proceeding with Sheraton's rule challenge to a repealed rule. The Department contends that section 120.56, Florida Statutes does not authorize a rule challenge to a rule that is no longer in existence, and therefore, DOAH is acting in excess of its jurisdiction. We agree and grant the petition. Because the court is confident that DOAH will promptly comply with this

opinion, the court withholds formal issuance of the writ.

BARFIELD, ALLEN and DAVIS, JJ., concur.