

**BEFORE THE HEARING EXAMINER FOR THE BROWARD COUNTY
RESILIENT ENVIRONMENT DEPARTMENT
IN AND FOR BROWARD COUNTY, FLORIDA**

BROWARD COUNTY,

Petitioner,

vs.

NOTICE OF VIOLATION
NOV24-0001

CITY OF FORT LAUDERDALE and
RIC-MAN CONSTRUCTION FLORIDA, INC.,

Respondent.

_____ /

JOINT MOTION FOR AGREED FINAL ORDER

Petitioner, BROWARD COUNTY ("County"), by and through its Resilient Environment Department ("RED"), and Respondents, CITY OF FORT LAUDERDALE ("CITY") and RIC-MAN CONSTRUCTION FLORIDA, INC. ("RIC-MAN") (CITY and RIC-MAN are herein collectively referred to as the "Respondents"),¹ hereby file this Joint Motion for Agreed Final Order in the above-styled case pursuant to Subsection 27-21(d) of the Broward County Code of Ordinances ("Code") and state as follows:

1. This cause was set for hearing before a Hearing Examiner on June 27, 2024, on Notice of Violation NOV24-0001, which alleged three Counts. Count 1 alleged Respondents violated Section 27-193(a) of the Code, which states:

It shall be unlawful for any person to discharge any substance in such quantities as may cause the receiving waters to be of quality less stringent than the water quality standards set forth in Section 27-195, or less stringent than allowed by effluent standards as established in Sections 27-196, or to cause pollution of water or a nuisance as defined in Section 27-4.

Count 2 alleged Respondents violated Section 27-333(a)(1) of the Code, which states:

No person shall cause, permit, suffer, allow, conduct or cause to be conducted impact, alteration, construction, demolition, dredging or filling in regulated aquatic or wetland resources, except in accordance with a currently valid environmental resource license issued by RED and all general and specific license conditions contained therein.

¹ Petitioner and Respondent(s) are collectively referred to as the "Parties."

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FLORIDA, INC.

Count 3 alleged Respondents violated Section 27-333(a)(2) of the Code, which states:

No person shall cause, suffer, permit or allow the alteration or trimming of mangroves unless performed in accordance with the requirements of Chapter 373, Part IV, F.S. (Section 373.403, F.S. et seq.), and Chapter 403, F.S., as amended.

2. Notice of Violation NOV24-0001 alleged that on or about January 30, 2022, to March 15, 2023, Respondents (a) discharged into the Coconut Canal in a manner as to cause receiving waters to be of quality less stringent than the water quality standards for turbidity on or about February 16, 2023, February 28, 2023, March 1, 2023, and March 3, 2023, as set forth in Section 27-195, or to cause pollution of water or a nuisance as defined in Section 27-4; (b) caused, permitted, suffered, allowed, conducted or caused to be conducted impact, alteration, construction and/or dredging by placing gravel fill in regulated aquatic or wetland resources without a valid Environmental Resource License issued by RED as observed on March 15, 2023, and March 20, 2023; and (c) caused, permitted, suffered, or allowed the alteration of mangroves not in accordance with the requirements of Chapter 373, Part IV, F.S., and Chapter 403, F.S. as amended at the Coconut Canal Folio #504216130013 located west of Coconut Drive between SW 18th Street and SW 20th Street, Fort Lauderdale, FL 33315.
3. To further resolve this cause without the need of a hearing, the Parties agree to the terms of the proposed Agreed Final Order attached hereto as Exhibit A.
4. The Parties acknowledge they had the opportunity to seek and receive whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations which attach by entry of the proposed Agreed Final Order.

WHEREFORE, the Parties request that the Hearing Examiner enter the proposed Agreed Final Order and promptly render it in the files of County.

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Respectfully submitted by the Parties on this _____ day of _____, 2024.

RESPONDENT
RIC-MAN CONSTRUCTION FLORIDA,
INC.

By: _____
(Signature)

Print Name: _____

Title of Signatory: _____

Company: _____

PETITIONER
BROWARD COUNTY

Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By: _____
Alexis Marrero Koratich, Esq.
Assistant County Attorney
Florida Bar No. 1010273
Primary Email: akoratich@broward.org
Secondary Email: gbusacca@broward.org
Counsel for Broward County

APPROVED AS TO FORM AND
CORRECTNESS:

By: _____
Rhonda Montoya Hasan, Esq.
Assistant City Attorney
Florida Bar No. 863890
Counsel for City of Fort Lauderdale

RESPONDENT
CITY OF FORT LAUDERDALE

By: _____
(Signature)

Print Name: _____

Title of Signatory: _____

Company: _____

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AGREED FINAL ORDER

THIS CAUSE having come before the undersigned Hearing Examiner for the Broward County Resilient Environment Department ("Department"), on the joint motion of Petitioner, BROWARD COUNTY ("County"), and Respondents, CITY OF FORT LAUDERDALE ("CITY") and RIC-MAN CONSTRUCTION FLORIDA, INC. ("RIC-MAN") (CITY and RIC-MAN are herein collectively referred to as the "Respondents"),¹ and having been advised in the premises, the Joint Motion for Agreed Final Order is hereby GRANTED and the following is hereby ORDERED:

I. Penalties and Costs:

1. Respondents shall pay a civil penalty of \$12,400 and administrative costs of \$300, for a total of \$12,700, within thirty (30) days from the date this Agreed Final Order is rendered in the County's files.

II. Corrective Actions:

1. Cease discharging into the Coconut Canal in a manner as to cause receiving waters to be of quality less stringent than the water quality standards.
2. Remove gravel fill from the Coconut Canal. County acknowledges that Respondents have complied with this corrective action and that the gravel fill has been removed.
3. Obtain an after-the-fact Modification of Broward County Environmental Resource License No. DF21-1148 ("Modified License") to address additional mangrove impacts. County acknowledges that Respondents have complied

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with this corrective action and that the Modified License was issued on March 18, 2024.

III. Other Terms and Conditions:

1. The Parties agree these amounts and corrective actions are reasonable and shall not contest them in any subsequent action, except that the County reserves the right to enforce the Agreed Final Order. Any extensions to the time frames identified in this Agreed Final Order must be approved by the County in writing.
2. The Parties agreed to waive their rights to an administrative hearing in this cause as set forth in Section 27-32 of the Broward County Code of Ordinances ("Code"), except as to an action for enforcement of this Agreed Final Order.
3. Entry of this Agreed Final Order does not relieve the Respondents of the need to comply with all applicable federal, state, or local laws, regulations, or ordinances. Respondents recognize their responsibility to take all reasonable measures necessary to prevent future violations of Chapter 27 of the Code. County hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit the future violation of applicable statutes or regulations, or to alleviate an immediate serious danger to the public health, safety, or welfare.
4. Respondents acknowledge and agree that failure to comply with this Agreed Final Order may result in the denial, suspension, or revocation of any license, permit, or approval pending or held by Respondent that is issued by the Department, pursuant to the Code.
5. County does not waive the following provisions of the Code: Subsections 27-4(20), 27-55(d)(7), and 27-63(b)(6) regarding habitual violators; Subsection 27-22(a)(5) regarding history of noncompliance; and Subsection 27-38(d) regarding habitual citation violators. This Agreed Final Order is considered a settlement agreement for the purpose specified in Subsection 27-4(20) of the Code.
6. The Parties acknowledge they had the opportunity to seek and receive whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations which attach by entry of this Agreed Final Order. The terms and language agreed to express the Parties' mutual intent and this Agreed Final Order shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other because of such party's preparation of this Agreed Final Order.

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DONE and ORDERED this _____ day of _____, 2024.

Renee Clark, Esq.
Hearing Examiner

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DONE and ORDERED this _____ day of _____, 2024.

Renee Clark, Esq.
Hearing Examiner