

**BEFORE THE HEARING EXAMINER FOR THE BROWARD COUNTY
ENVIRONMENTAL PROTECTION AND GROWTH MANAGEMENT DEPARTMENT
IN AND FOR BROWARD COUNTY, FLORIDA**

BROWARD COUNTY,

Petitioner,

vs.

NOTICE OF VIOLATION
NOV16-0030

5551 NW 9TH AVENUE 1-5, LLC,

Respondent.

_____ /

JOINT MOTION FOR AGREED FINAL ORDER

BROWARD COUNTY, by and through its Environmental Protection and Growth Management Department ("Department"), and Respondent, 5551 NW 9TH AVENUE 1-5, LLC (collectively "Parties"), 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 ("BCC" or "Code") and state as follows:

1. This cause had been set for a hearing before a Hearing Examiner on December 22, 2016 to determine whether or not the Respondent, 5551 NW 9TH AVENUE 1-5, LLC violated the following sections of the Code:

Section 27-180(b)(1), BCC, which states:

"At least ten (10) working days prior to the initiation of work for an asbestos removal project, a building demolition project, or a building renovation project, the owner, operator, or contractor shall prepare and submit to the EPGMD a completed Statement of Responsibilities Regarding Asbestos, using the form provided by EPGMD;" and

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Section 27-180(b)(2), BCC, which states:

"In accordance with the requirement of the NESHAP, an original Notice of Asbestos Renovation or Demolition form shall be submitted to EPGMD using the form provided by DEP, as amended. The Notice of Asbestos Renovation or Demolition shall be accompanied by a survey to indicate the presence or absence of asbestos containing material in the subject project area of the building. The survey shall be prepared by or under the supervision of an asbestos consultant licensed in the state of Florida, pursuant to Chapter 469, F.S., herein referred to as a Florida Licensed Asbestos Consultant. The survey shall be a documented report, either in printed or typed format, and shall bear the original signature of the Florida Licensed Asbestos Consultant performing the survey;" and

Section 27-173, BCC, which states:

"The following provisions of the Florida Administrative Code ('F.A.C.'), as amended, are adopted and incorporated by reference into this article:...62.204 'Air Pollution Control - General Provisions,'..."

2. The Notice of Violation alleged that on or about February 2015 to March 2016, at 5570 NW 10th Terrace, Fort Lauderdale, Florida 33309, Respondent failed to submit to the Department a completed Statement of Responsibilities Regarding Asbestos at least ten (10) working days prior to initiation of work for a building demolition project; failed to submit to the Department an original Notice of Asbestos Renovation or Demolition form as required by NESHAP, 40 CFR 61.145 and an asbestos survey at least ten (10) working days prior to commencement of demolition; and failed to thoroughly inspect the facility for the presence of asbestos containing material prior to demolition.
3. In furtherance of possible resolution of this action without the need for a hearing, the Parties have agreed to the terms of the proposed Agreed Final Order, attached as Exhibit "A." The Parties acknowledge that they have 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.

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WHEREFORE, the Parties request that the Hearing Examiner enter the proposed Agreed Final Order and promptly render it in the files of the Broward County Environmental Protection and Growth Management Department.

Respectfully submitted by the Parties on this ____ day of _____, 20__.

RESPONDENT
5551 NW 9TH AVENUE 1-5, LLC

By: _____
(Signature)

Print Name: _____

Title: _____

Company: _____

BROWARD COUNTY
PETITIONER

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Counsel for Broward County

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AGREED FINAL ORDER

THIS CAUSE having come before the undersigned Hearing Examiner for the Broward County Environmental Protection and Growth Management Department ("Department") on the joint motion of the Parties and having been advised in the premises, the Parties' Joint Motion for Agreed Final Order is hereby GRANTED and the following is hereby ORDERED:

Respondent shall pay a civil penalty of \$20,500, a Notice of Demolition or Asbestos Renovation fee of \$250, a Statement of Responsibilities fee of \$50, and administrative costs of \$300 for a total of \$21,100 within thirty (30) days from the date that this Agreed Final Order is rendered in the Petitioner's files.

The Parties agree that these amounts are reasonable and shall not contest them in any subsequent action, except that the Petitioner 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 Environmental Protection and Growth Management Department.

The Parties have agreed to waive their rights to a trial or administrative hearing in this action as set forth in Section 27-32, Broward County Code of Ordinances ("BCC"), except as to an action for enforcement of this Agreed Final Order.

Entry of this Agreed Final Order does not relieve the Respondent of the need to comply with all applicable federal, state, or local laws, regulations, or ordinances. Respondent recognizes its responsibility to take all reasonable measures necessary to prevent

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future violations of Chapter 27, BCC. The 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.

The County does not waive the provisions of Subsections 27-4(20), 27-55(d)(7), and 27-63(b)(6), BCC, regarding habitual violators, Subsection 27-22(a)(5), BCC, regarding history of noncompliance, and Subsection 27-38(d) regarding habitual citation violators. This Agreed Final Order shall be considered a settlement agreement for the purpose specified in Subsection 27-4(20), BCC.

The Parties acknowledge that they have 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.

DONE and ORDERED this _____ day of _____, 20__.

Renee Clark, Esq.
Hearing Examiner