

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

BROWARD COUNTY,

Petitioner,

vs.

NOTICES OF VIOLATION
NOV14-0046 / NOV14-0047

GREEN HORIZON SERVICES, INC.;
R.V. SPRINKLER & LANDSCAPE, INC.;
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA,

Respondents.

JOINT MOTION FOR AGREED FINAL ORDER

BROWARD COUNTY, by and through its Environmental Protection and Growth Management Department ("Department"), and Respondents, GREEN HORIZON SERVICES, INC.; R.V. SPRINKLER & LANDSCAPE, INC.; and THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, (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 May 28, 2015, to determine whether or not the Respondents, GREEN HORIZON SERVICES, INC.; R.V. SPRINKLER & LANDSCAPE, INC.; and THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, violated Section 27-405(c), BCC, which states:

"Unless otherwise authorized by this article, no person shall cause, suffer, permit or allow: (c) Tree abuse as defined by this article."

2. Notice of Violation NOV14-0046 alleged that on or about October 23, 2014, at Margate Middle School, 500 NW 65th Avenue, Margate, Florida 33063, Respondents abused forty-three (43) palm trees through pruning of live fronds that initiate above the horizontal plane and twenty-six (26) woody trees through pruning that does not conform to standards or recommendations set by the

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American National Standards Institute, as amended, including over-lifting and pruning which leaves stubs.

3. Notice of Violation NOV14-0047 alleged that on or about October 27, 2014, at Margate Elementary School, 6300 NW 18th Street, Margate, Florida 33063, Respondents abused thirteen (13) palm trees through pruning of live fronds that initiate above the horizontal plane and twenty (20) woody trees through pruning that does not conform to standards or recommendations set by the American National Standards Institute, as amended, including over-lifting and pruning which leaves stubs.
4. 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.

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 21st day of MAY, 2015.

RESPONDENT
GREEN HORIZON SERVICES, INC.

By: Shane M. Fidler
(Signature)

Print Name: SHANE M. FIDLER

Title: VP OF OPERATIONS

Company: GREEN HORIZON SERVICES, INC.

RESPONDENT
R.V. SPRINKLER & LANDSCAPE, INC.

By: Rodney Vargas
(Signature)

Print Name: Rodney Vargas

Title: President

Company: R.V. Sprinklers & Landscape

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RESPONDENT
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By: _____
(Signature)

Print Name: _____

Title: _____

Company: _____

PETITIONER
BROWARD COUNTY

Joni Armstrong Coffey
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
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By: _____
Daphne E. Jones, Esq.
Assistant County Attorney
Florida Bar No. 0844111
Primary Email: daiones@broward.org
Secondary Email gbusacca@broward.org
Counsel for Broward County

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RESPONDENT
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

(Corporate Seal)

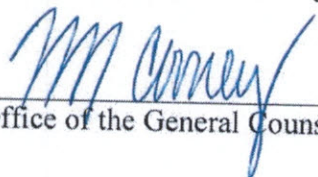
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:

Donna P. Korn, Chair

Robert W. Runcie, Superintendent of
Schools

Approved as to form and legal content



Office of the General Counsel

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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:

Respondents, GREEN HORIZON SERVICES, INC.; R.V. SPRINKLER & LANDSCAPE, INC.; and THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, shall pay a civil penalty of \$10,000 and administrative costs of \$300 for a total of \$10,300. It is agreed by the Respondents to enter into a payment plan for the \$10,300 referenced in this order which shall include interest at a rate of 4.75 percent per year and begins on the date that this Final Order is rendered. Payment in full is due within twelve (12) months. The total shall be paid in twelve (12) consecutive monthly payments of \$880.58. The first payment is due within thirty (30) days from the date that this Final Order is rendered in the Petitioner's files, with subsequent payments due every thirty (30) days thereafter.

If at any time Respondents wish to pay principal balance due, principal balance due at that time may be paid without additional interest. If at any time a specified payment is not received within the agreed time frame, the entire balance, at Broward County's demand, shall become due, and the County reserves the right to take further legal action to collect the outstanding balance. Furthermore, Respondents agree that if they

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fail to make payments in accordance with this agreement, interest shall continue to accrue at the agreed upon rate until payment is made in full.

Additionally, Respondents, GREEN HORIZON SERVICES, INC.; R.V. SPRINKLER & LANDSCAPE, INC.; and THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, agree to perform the in-kind penalty project of purchasing and installing twenty-seven (27) Florida Native Category One trees, or their equivalent in canopy credits, at Broward County's Quiet Waters Park. Within thirty (30) days from the date of rendition of this Agreed Final Order, Respondents shall submit to the Department for approval a planting plan for the in-kind tree installation. The plan shall include the proposed locations and type(s) of trees to be installed. Within 180 days from the date of approval of Respondents' planting plan by the Department, Respondents shall install the twenty-seven (27) Category One trees, or their equivalent in canopy credits utilizing a minimum of four (4) different species. Respondents agree to pay \$375 for each tree not installed within the specified time frame.

All trees installed shall be Florida Number One grade or better (Florida Department of Agriculture and Consumer Services "Grades and Standards for Nursery Plants") and be installed in accordance with the approved planting plan and the replacement criteria of Section 27-408(i), BCC. Tree installation shall be done in accordance with sound arboriculture practices including initial watering in and fertilization. All work shall be done under the supervision of the Broward County Parks and Recreation Division.

Respondents, GREEN HORIZON SERVICES, INC.; R.V. SPRINKLER & LANDSCAPE, INC.; and THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, shall at all times hereafter indemnify, hold harmless and, at the option of the County Attorney, defend or pay for an attorney selected by County Attorney to defend Broward County, its officers, agents, servants, and employees against any and all claims, losses, liabilities, and expenditures of any kind, including attorney fees, court costs, and expenses, caused by negligent act or omission of Respondents, their employees, agents, servants, or officers, or accruing, resulting from, or related to, performing the in-kind project described above of this Agreed Final Order including, without limitation, any and all claims, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. The provisions of this section shall survive the expiration or earlier termination of this Agreed Final Order.

Corrective Action: Respondents, GREEN HORIZON SERVICES, INC.; R.V. SPRINKLER & LANDSCAPE, INC.; and THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, shall employ a Broward County Licensed, Class A, International Society of Arboriculture (ISA) Certified Arborist to correctively prune the 46 abused woody trees as designated by the Department. Respondents shall, within thirty (30)

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days from the date of approval of this Agreement, submit to the Department the ISA certified arborist's plan of action for corrective pruning, including time frames for each corrective pruning (at least two corrective prunings, which are at a minimum of one year apart are required) and an estimated completion date. Said corrective pruning shall be completed within eighteen months from the date of approval of this Agreement. The Department shall be notified after completion of each corrective pruning.

Respondent, R.V. SPRINKLER & LANDSCAPE, INC, shall have its employees attend the Basic Tree Pruning training course provided by the Broward County Extension Service 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 and corrective actions are reasonable and shall not contest them in any subsequent action, except that the Petitioner reserves the right to enforce the Agreed Final Order and may request additional civil penalties and/or corrective actions be imposed if the Respondents have not complied with this Agreed Final Order in a timely manner. Any extensions to the time frames identified in this Agreed Final Order must be approved by the Department.

The Parties have agreed to waive their rights to an administrative hearing in this action as set forth in Section 27-32, BCC, except as to an action for enforcement of this Agreed Final Order.

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, 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

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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 _____, 2015.

Renee Clark, Esq.
Hearing Examiner