

BOARD OF COUNTY COMMISSIONERS

DATE: September 10, 2015

AGENDA ITEM NO. 24

Consent Agenda ☐

Regular Agenda ☒

Public Hearing ☐

County Administrator's Signature:

Subject:

Consent Order between Pinellas County and Waterstone Capital Portofino at Largo, LLC and Portofino at Largo Condo Association, Inc. as final settlement of Air Quality Consent Order A14-058.

Department:

Parks and Conservation Resources

Staff Member Responsible:

Ajaya Satyal, Air Quality Division Manager

Recommended Action:

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS APPROVE CONSENT ORDER A14-058 IN THE AMOUNT OF \$42,945.00 AND AUTHORIZE THE CHAIRMAN TO SIGN THE ORDER.

Summary Explanation/Background:

On June 19, 2014, the Air Quality Division received a complaint referral from the United States Environmental Protection Agency, Criminal Investigation Division, regarding renovation activities that occurred on the real property known as Portofino at Largo Condominiums, located at 13300 Walsingham Road in Largo. The Division conducted multiple inspections and laboratory analyses to determine the type and severity of the air quality violations. The Division and Respondents have agreed to the terms outlined in the attached Consent Order to resolve this case, including \$42,945.00 to be paid by Respondents into the Pinellas County Air Pollution Recovery Fund in quarterly installments as follows: first three (3) installments in the amount of \$10,736.00, and the fourth and final installment in the amount of \$10,737.00, beginning August 1, 2015.

Pursuant to Resolution No. 94-63, the County Administrator or his designee has authority to execute consent orders for environmental infractions for a penalty amount of \$25,000.00 or less. Consent Orders over \$25,000.00 must be executed by the Board.

Fiscal Impact/Cost/Revenue Summary:

The penalty to be collected is \$42,945.00, and will be added to the Pinellas County Air Quality Pollution Recovery Fund pursuant to the schedule in the attached Consent Order.

Exhibits/Attachments:

Contract Review
Notice of Violations
Signed Consent Order



BCC AGENDA ITEM REVIEW -TRANSMITTAL SLIP

PROJECT: Air Quality Consent Order For Execution	
CONTRACT NO.: number	ESTIMATED EXPENDITURE / <u>REVENUE</u>: \$42,945.00 (Circle or underline appropriate choice above.)

In accordance with BCC agenda item guidance, the attached documents are submitted for your review and comment. Please complete this Agenda Review Transmittal Slip below with your assessment, and **forward to the next Review Authority on the list, skipping any authority marked "N/A."** Indicate suggested changes by noting those in "Comments" column, or by revising, in RED, the appropriate section(s) of the document(s) to reflect the exact wording of the desired change(s).

OTHER SPECIFICS RELATING TO THE AGENDA ITEM:
<u>Recommendation to the Board Of County Commissioners to execute Consent Order A-14-058 in the amount of \$42,954.00 for Air Quality Division.</u>

REVIEW SEQUENCE	DATE	INITIAL/ SIGNATURE	COMMENTS (IF ANY)	COMMENTS REVIEWED & ADDRESSED OR INCORPORATED
Originator: Ajaya Satyal	8/5/2015 8/6/15	AS PW		
PCR Department Paul Cozzie				
Legal: Chelsea Hardy	8/6/15	CH		
Assistant County Adminitrator: Paul Sacco	8/11/15	PS	See Ord Mmm Edits	
Agenda Coordinator Paula Gonya				

Please return to **Ajaya Satyal at Air Quality Division, 509 East Ave. So., Ste. 138**

All inquiries should be made to **Ajaya Satyal, Air Quality Division ext. 4-4655.**

**BOARD OF COUNTY
COMMISSIONERS**

Charlie Justice
San Latvala
Janet C. Long
John Morroni
Norm Roche
Karen Williams Seel
Kenneth T. Welch



September 3, 2014

Mr. Eli Dadon
Portofino at Largo Condo Association, Inc.
13300 Walsingham Road
Largo, FL 33774

Re: Notice of Violation: - Portofino at Largo aka Portofino at Indian Rocks, 13300 Walsingham Road

CERTIFIED MAIL: 7013 0600 0001 8189 7618

Mr. Dadon:

Pursuant to Chapters 78-601 and 90-403, Laws of Florida, and the rules promulgated therein, which authorizes and empowers the Pinellas County Air Quality Division to control, abate and prohibit pollution of the air in Pinellas County, Florida, you are hereby notified of findings which indicate that violations of the Pinellas County Code has taken place as follows:

1. Pinellas County Code, Chapter 58, Section 58-149. National emission standard for asbestos 40 CFR, Part 61, Subpart M, 61.145 Standard for demolition and renovation

(a) Applicability. To determine which requirements of paragraphs (a), (b), and (c) of this section apply to the owner or operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos, including Category I and Category II non-friable ACM.

Specifically, Portofino at Largo Condominium Association, Inc. caused renovation activities to be performed and failed to thoroughly inspect the referenced facility for asbestos containing materials prior to the renovation operation. Inspection by Pinellas County Air Quality Division personnel revealed the following approximate quantities of suspect asbestos containing building materials were disturbed:

- 25,984 square feet of textured ceiling materials
- 3312 square feet of vinyl floor sheeting
- 2250 square feet of drywall systems
- 460 square feet of exterior stucco
- 6800 square feet of roof shingles and felt paper
- Greater than 160 square feet of exterior paint.

PLEASE ADDRESS REPLY TO:
509 East Avenue So., Ste. 138
Clearwater, Florida 33756
Phone: (727) 464-4422
FAX: (727) 464-4420
TDD: (727) 464-4106

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2. Pinellas County Code, Chapter 58, Section 58-149(a). National emission standard for asbestos 40 CFR, Part 61, Subpart M, 61.145 Standard for demolition and renovation.

Notification requirements. Each owner or operator of a demolition or renovation activity to which this section applies shall:

(1) Provide the Administrator with written notice of intention to demolish or renovate. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

(3) Postmark or deliver the notice as follows:

(i) At least 10 working days before asbestos stripping or removal work or any other activity begins (such as site preparation that would break up, dislodge or similarly disturb asbestos material), if the operation is described in paragraphs (a) (1) and (4) (except (a)(4)(iii) and (a)(4)(iv)) of this section. If the operation is as described in paragraph (a)(2) of this section, notification is required 10 working days before demolition begins.

Specifically, Portofino at Largo Condo Association, Inc. caused the disturbance and removal of approximately 25,984 square feet of friable asbestos containing textured ceiling materials at the referenced facility without first submitting written notification to the Pinellas County Air Quality Division, ten working days prior to commencement of renovation activities.

3. Pinellas County Code, Chapter 58, Section 58-149(a). National emission standard for asbestos 40 CFR, Part 61, Subpart M, 61.145 Standard for demolition and renovation.

(c)(1) Remove all Regulated Asbestos Containing Material (RACM) from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal.

Specifically, all RACM was not removed from the referenced facility prior to the scheduled commencement of renovation activities. These renovation activities dislodged friable asbestos containing materials; this disturbed material was found coating other building components, (walls, shelving, and floors) and was observed scattered as debris on stairwells, landings, parking lots and landscaped areas.

4. Pinellas County Code, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, SUBPART M, 61.145 Standard for demolition and renovation.

(c)(3) When Regulated Asbestos Containing Material (RACM) is stripped from a facility component while it remains in place in the facility, adequately wet the RACM during the stripping operation;

Specifically, approximately 25,984 square feet of friable asbestos containing textured ceiling materials were stripped from the referenced facility without adequately wetting the material. Dry friable asbestos containing material was observed during inspections performed on June 19, June 30, July 11, July 14 and 25, and on August 1, 2014.

5. Pinellas County Code, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, Subpart M, 61.145 Standard for demolition and renovation.

(c)(6) Adequately wet the Regulated Asbestos Containing Material and ensure that it remains wet until collected and contained or treated in preparation for disposal.

Specifically, remnants of approximately 25,984 previously stripped friable asbestos was found as scattered debris, and was observed throughout the referenced facility in a dry condition, with no indication of having been adequately wet.

6. Pinellas CountyCode, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, Subpart M, 61.145 Standard for demolition and renovation.

(c) (4) After a facility component covered with, coated with, or containing RACM has been taken out of the facility as a unit or in sections pursuant to paragraph (c)(2) of this section, it shall be stripped or contained in leak-tight wrapping, except as described in paragraph (c)(5) of this section.

Specifically, approximately 8,799 square feet of friable asbestos containing textured ceiling materials (the waste from the renovation of 8 condominium units that have been completed) were not placed in leak tight wrapping prior to transport and disposal. Waste receipts supplied by the City of Largo Department of Public Works indicate the 8,799 square feet of friable asbestos containing material was transported from the referenced facility to Angelo's Recycled Materials or the Pinellas County Solid Waste Disposal facilities. The City of Largo Department of Public Works haulers do not place construction debris into leak tight wrapping.

7. Pinellas CountyCode, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, SUBPART M, 61.145 Standard for demolition and renovation.

(c) (8) Effective 1 year after promulgation of this regulation, no RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this section unless at least one on-site representative, such as a foreman or management-level person or other authorized representative, trained in the provisions of this regulation and the means of complying with them, is present.

Specifically, a trained on-site representative was not present during the removal of 25,984 square feet of friable asbestos containing material.

8. Pinellas CountyCode, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, Subpart M, 61.150 Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations.

(b) All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at: (1) A waste disposal site operated in accordance with the provisions of § 61.154; and (d) For all asbestos-containing waste material transported off the facility site: (2) Provide a copy of the waste shipment record, described in paragraph (d)(1) of this section, to the disposal site owners or operators at the same time as the asbestos-containing waste material is delivered to the disposal site.

Specifically, dry friable asbestos containing waste material from the stripping operations of approximately 25,984 square feet of asbestos containing textured ceiling material was observed in various locations throughout the facility. These areas include: the interior of condominium units, open back porches, stairwells, landings, landscaped grassy areas and parking lots. Additionally, dry friable asbestos containing waste materials from 8 condominium units, where renovations have been completed (approximately 8,799 square feet), were deposited in open top roll-off dumpster containers; disposal of these materials was not in accordance with the regulations as set forth in 40 CFR 61.154 and waste shipment records were not created. Waste receipts supplied by the City of Largo Department of Public Works revealed these open top roll-off dumpster containers were subsequently transported to Angelo's Recycled Materials and Pinellas County Solid Waste Disposal facilities. This material was never identified as regulated asbestos containing waste. These loads were potentially recycled at Angelo's or deposited into the County incinerator; they were not buried in the proper manner, and the operators of these two waste facilities were not notified that this material contained asbestos.

9. Pinellas County Code, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, SUBPART M, 61.150 Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations.

(a) Discharge no visible emissions to the outside air during the collection, processing (including incineration), packaging, or transporting of any asbestos-containing waste material generated by the source, or use one of the emission control and waste treatment methods specified in paragraphs (a)(1) through (4) of this section.

Specifically, inspections by Pinellas County Air Quality Division personnel observed dry friable asbestos containing waste materials throughout the referenced facility. These areas include: open back porches, stairwells, landings, landscaped grassy areas, parking lots and open top roll-off dumpsters. Additionally, approximately 8,799 square feet of dry friable asbestos containing materials were disposed of in non-compliance with 40 CFR 61.154 potentially causing visible emissions during the recycling, incineration or improper landfill disposal of these materials.

10. Pinellas County Code, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, SUBPART M, 61.145 Standard for demolition and renovation.

(a)(iv) Label the containers or wrapped materials specified in paragraph (a)(1)(iii) of this section using warning labels specified by Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 CFR 1910.1001(j)(4) or 1926.1101(k)(8). The labels shall be printed in letters of sufficient size and contrast so as to be readily visible and legible.

(v) For asbestos-containing waste material to be transported off the facility site, label containers or wrapped materials with the name of the waste generator and the location at which the waste was generated.

Specifically, an inspection by Pinellas County Air Quality Division personnel on June 19, 2014 did not find any of the waste materials wrapped or labeled as per regulation requirements.

11. Pinellas County Code, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, SUBPART M, 61.145 Standard for demolition and renovation.

(5)(c) Mark vehicles used to transport asbestos-containing waste material during the loading and unloading of waste so that the signs are visible. The markings must conform to the requirements of §§61.149(d)(1) (i), (ii), and (iii).

Specifically, an inspection by Pinellas County Air Quality Division personnel on June 19, 2014 did not find markings (signage) on work vehicles or the open top roll-off dumpster containers which held the asbestos waste materials. Additionally, waste receipts supplied by the City of Largo Department of Public Works revealed their open top roll-off dumpster containers were used to transport approximately 8,799 square feet of dry friable asbestos containing waste materials to Angelo's Recycled Materials or the Pinellas County Solid Waste Disposal facilities. The City of Largo Department of Public Works does not mark its waste containers or vehicles as containing regulated asbestos waste.

Based on the facts stated above, and on the results of inspections performed on June 19, June 30, July 11, July 14 and 25, and August 1, 2014 at the Portofino at Largo aka Portofino at Indian Rocks, located at 13300 Walsingham Road, Largo, this serves as a Notice of Violation.

Respond By Phone Immediately

Call Chris Brodeur upon receipt of this letter to discuss financial settlement and resolutions for any violation for which Portofino at Largo Condo Association, Inc. may be responsible. Be prepared to explain the circumstances that led to the alleged violations and propose a remedy to bring the source back into compliance. You may also schedule a conference to provide evidence that demonstrates a violation did not take place.

Written Response Required Within 10 Days

Provide a written response within ten (10) calendar days of receiving this Notice of Violation. Indicate the precise cause of each violation cited above. Include a time table of actions that have been or will be taken to prevent future occurrences of the violations cited. This written response will not absolve Portofino at Largo Condo Association, Inc. of potential liability for a civil penalty.

If Portofino at Largo Condo Association, Inc. does not respond within 10 (ten) calendar days of receipt of this Notice of Violation, or cannot meet within a reasonable timeframe, a Consent Order will be issued specifying compliance conditions along with a penalty of \$81,697.

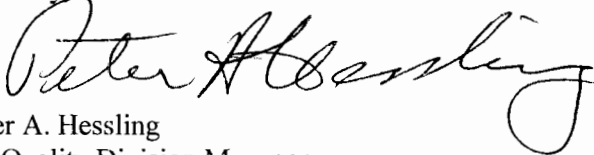
Potential Enforcement Action

Operation of a source in violation of Pinellas County Code, Chapter 58, may result in liability for damage and restoration and judicial imposition of a civil penalty up to a maximum of \$10,000 per violation, per day, pursuant to chapters 78-601 and 90-403, Laws of Florida. Continuation of activities in violation of existing regulations can result in fines being levied for each and every day a violation takes place. Violations may be resolved through entry into a Consent Order or progressive enforcement action.

Failure to respond to this notice, or comply within the specified time frames, may result in commencement of civil action for injunctive relief and the assessment of civil and/or criminal penalties as provided by this Code, and the Florida Statutes. Also, the State of Florida, Department of Environmental Protection, reserves the right to take enforcement actions related to the potential violations cited above.

If you have any questions regarding this matter, contact Chris Brodeur at (727) 464-4422.

Sincerely,



Peter A. Hessling
Air Quality Division Manager

Copy: Case File, Read File
E-copy: SW-FDEP, Cynthia Falandysz

**BOARD OF COUNTY
COMMISSIONERS**

Charlie Justice
San Latvala
Janet C. Long
John Morroni
Norm Roche
Karen Williams Seel
Kenneth T. Welch



September 3, 2014

Mr. Richard Waserstein
Waterstone Capital Portofino at Largo, LLC
1124 Kane Concourse
Bay Harbor Islands, FL 33154

Re: Notice of Violation: - Portofino at Largo aka Portofino at Indian Rocks, 13300 Walsingham Road

CERTIFIED MAIL: 7013 0600 0001 8189 7595

Mr. Waserstein:

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Specifically, Waterstone Capital Portofino at Largo, LLC caused renovation activities to be performed and failed to thoroughly inspect the referenced facility for asbestos containing materials prior to the renovation operation. Inspection by Pinellas County Air Quality Division personnel revealed the following approximate quantities of suspect asbestos containing building materials were disturbed:

- 25,984 square feet of textured ceiling materials
- 3312 square feet of vinyl floor sheeting
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(c) (8) Effective 1 year after promulgation of this regulation, no RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this section unless at least one on-site representative, such as a foreman or management-level person or other authorized representative, trained in the provisions of this regulation and the means of complying with them, is present.

Specifically, a trained on-site representative was not present during the removal of 25,984 square feet of friable asbestos containing material.

8. Pinellas County Code, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, Subpart M, 61.150 Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations.

(b) All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at: (1) A waste disposal site operated in accordance with the provisions of § 61.154; and (d) For all asbestos-containing waste material transported off the facility site: (2) Provide a copy of the waste shipment record, described in paragraph (d)(1) of this section, to the disposal site owners or operators at the same time as the asbestos-containing waste material is delivered to the disposal site.

Specifically, dry friable asbestos containing waste material from the stripping operations of approximately 25,984 square feet of asbestos containing textured ceiling material was observed in various locations throughout the facility. These areas include: the interior of condominium units, open back porches, stairwells, landings, landscaped grassy areas and parking lots. Additionally, dry friable asbestos containing waste materials from 8 condominium units, where renovations have been completed (approximately 8,799 square feet), were deposited in open top roll-off dumpster containers; disposal of these materials was not in accordance with the regulations as set forth in 40 CFR 61.154 and waste shipment records were not created. Waste receipts supplied by the City of Largo Department of Public Works revealed these open top roll-off dumpster containers were subsequently transported to Angelo's Recycled Materials and Pinellas County Solid Waste Disposal facilities. This material was never identified as regulated asbestos containing waste. These loads were potentially recycled at Angelo's or deposited into the County incinerator; they were not buried in the proper manner, and the operators of these two waste facilities were not notified that this material contained asbestos.

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Specifically, inspections by Pinellas County Air Quality Division personnel observed dry friable asbestos containing waste materials throughout the referenced facility. These areas include: open back porches, stairwells, landings, landscaped grassy areas, parking lots and open top roll-off dumpsters. Additionally, approximately 8,799 square feet of dry friable asbestos containing materials were disposed of in non-compliance with 40 CFR 61.154 potentially causing visible emissions during the recycling, incineration or improper landfill disposal of these materials.

10. Pinellas County Code, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, SUBPART M, 61.145 Standard for demolition and renovation.

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(v) For asbestos-containing waste material to be transported off the facility site, label containers or wrapped materials with the name of the waste generator and the location at which the waste was generated.

Specifically, an inspection by Pinellas County Air Quality Division personnel on June 19, 2014 did not find any of the waste materials wrapped or labeled as per regulation requirements.

11. Pinellas County Code, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, SUBPART M, 61.145 Standard for demolition and renovation.

(5)(c) Mark vehicles used to transport asbestos-containing waste material during the loading and unloading of waste so that the signs are visible. The markings must conform to the requirements of §§61.149(d)(1) (i), (ii), and (iii).

Specifically, an inspection by Pinellas County Air Quality Division personnel on June 19, 2014 did not find markings (signage) on work vehicles or the open top roll-off dumpster containers which held the asbestos waste materials. Additionally, waste receipts supplied by the City of Largo Department of Public Works revealed their open top roll-off dumpster containers were used to transport approximately 8,799 square feet of dry friable asbestos containing waste materials to Angelo's Recycled Materials or the Pinellas County Solid Waste Disposal facilities. The City of Largo Department of Public Works does not mark its waste containers or vehicles as containing regulated asbestos waste.

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Failure to respond to this notice, or comply within the specified time frames, may result in commencement of civil action for injunctive relief and the assessment of civil and/or criminal penalties as provided by this Code, and the Florida Statutes. Also, the State of Florida, Department of Environmental Protection, reserves the right to take enforcement actions related to the potential violations cited above.

If you have any questions regarding this matter, contact Chris Brodeur at (727) 464-4422.

Sincerely,



Peter A. Hessling
Air Quality Division Manager

Copy: Case File, Read File
E-copy: SW-FDEP, Cynthia Falandysz



RECEIVED

JUL 27 2015

Pinellas Co. Air Quality

PINELLAS COUNTY
OFFICE OF COUNTY ATTORNEY

PHONE (727) 464-3354 • FAX (727) 464-4147 • 315 COURT STREET • CLEARWATER, FLORIDA 33756

JAMES L. BENNETT
COUNTY ATTORNEY

July 20, 2015

Mr. Richard Waserstein
Waterstone Capital Portofino at Largo, LLC
1124 Kane Concourse
Bay Harbor Islands, FL 33154

RE: Consent Order A14-058: Portofino at Largo; 13300 Walsingham Road, Largo, FL 33774

Dear Mr. Waserstein,

As you are aware, there is an outstanding Consent Order from the Pinellas County Air Quality Division regarding asbestos violations that occurred on the above-referenced property, for which your company is liable.

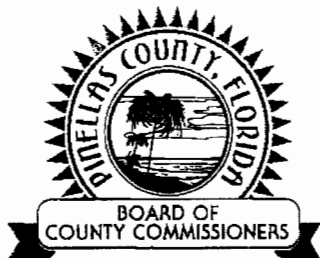
On May 12, 2015, your counsel informed me that you have agreed to settle this case. The settlement terms included a payment plan for the violation penalty to be paid in four (4) installments over a period of nine months. A Consent Order was drafted to reflect these terms, and was required to be signed and returned with the initial payment, by July 1, 2015. To date, the Consent Order and first payment have not been received.

Enclosed please find the Consent Order that must be signed and returned to Air Quality immediately. (Please note that this Order must be signed by both Portofino at Largo Condominium Association as well as Waterstone Capital Portofino at Largo, LLC). If the Consent Order and first payment are not returned by **August 1, 2015**, it will be assumed that you no longer wish to settle this case, and formal enforcement action will be taken against you. If formal enforcement action is necessary, the Division will seek the original amount of the violation, less a third party apportioned settlement, for a total of at least **\$71,697.00**, in addition to all costs and expenses of further enforcement.

If you have any questions regarding this matter, please contact Chris Brodeur at 727-464-4422.

Respectfully,

Chelsea D. Hardy, Esq.
Pinellas County Attorney's Office
315 Court Street, 6th Floor
Clearwater, FL 33756
Phone: 727-464-3354
Fax: 727-464-4147



JAMES L. BENNETT
COUNTY ATTORNEY

PINELLAS COUNTY OFFICE OF COUNTY ATTORNEY

PHONE (727) 464-3354 • FAX (727) 464-4147 • 315 COURT STREET • CLEARWATER, FLORIDA 33756

July 20, 2015

CERTIFIED MAIL: 7013 2250 0000 4964 5071

PINELLAS COUNTY AIR QUALITY DIVISION CONSENT ORDER A14-058

This Consent Order is entered into on the _____ day of _____, 2015, by and between Pinellas County, hereinafter referred to as "County," party of the first part, and Waterstone Capital Portofino at Largo, LLC and Portofino at Largo Condo Association, Inc., parties of the second part, hereinafter referred to as "Respondents," collectively referred to as "the Parties," to settle the Pinellas County Air Quality case referenced above.

WITNESSETH:

On the basis of various inspections performed by Air Quality that began on June 19, 2014 at Portofino at Largo Condominiums, located at 13300 Walsingham Road, Largo, Respondents were found in violation of Pinellas County Code, Chapter 58. As outlined in the original Notice of Violations sent on September 3, 2014, Respondents performed renovation activities without thoroughly inspecting the subject property for asbestos containing materials, of which caused a significant amount of asbestos to be disturbed.

The purpose of this Consent Order is to settle the violations identified by Air Quality in said Notice of Violations. The Parties hereby agree as follows:

1. **OBSERVANCE OF LAWS:** Respondents agree to observe, comply with and execute promptly at its expense during the term hereof, all federal, state, and county laws, rules, codes, ordinances and regulations relating to asbestos. Specifically, Respondents agree to:
 - A. Thoroughly inspect for the presence of all asbestos, including Category I and Category II non-friable ACM for all future renovation or demolition operations to comply with Pinellas County Code, Chapter 58.
 - B. Ensure that all renovation or demolition work performed by or under the direction of Respondents complies with all federal, state and county regulations that pertain to the notification, inspection and abatement of said projects.

2. PAYMENT: Respondents agree to pay to the Air Quality Division a total of \$42,945.00 to settle the violations referenced herein. Payment shall be made as follows:

First payment of:	<u>\$10,736.00</u>	due on or before:	<u>August 1, 2015</u>
Second payment of:	<u>\$10,736.00</u>	due on or before:	<u>November 1, 2015</u>
Third payment of:	<u>\$10,736.00</u>	due on or before:	<u>February 1, 2016</u>
Fourth payment of:	<u>\$10,737.00</u>	due on or before:	<u>May 1, 2016</u>

4. JOINT AND SEVERAL LIABILITY: Respondents are jointly and severally liable for the violations referenced herein and for prompt payment in accordance with the terms outlined above. Air Quality shall accept payment from either Respondent in the full amount due for each pay period, or from each Respondent in an amount that equals the total due for each pay period. Failure of Respondents to assure that the proper total amount due for each period is received by Air Quality by the proper payment dates shall be considered a default of this Order by each Respondent.

3. NOTICES: Respondents must make payments to "**Pinellas County Board of County Commissioners**" by cashier's check, certified check or money order and shall include thereon the **Enforcement Case number assigned above (A14-058) and the notation "Pinellas County Air Pollution Recovery Fund."** All notices and payment shall be sent by Certified or Registered mail, return receipt requested, unless Respondents are otherwise notified, in writing, to the following address:

*Pinellas County
Air Quality Division
509 East Ave. South, Ste. 138
Clearwater, Florida 33756*

An officer or duly authorized representative of each Respondent must sign the Consent Order. If a representative signs the order, a letter signed by an officer of each respective Respondent, stating that the representative has the authority to act on its behalf, must be on file or included with the Order.

If Respondents do not sign and return this Consent Order to the Division at the address given above by August 1, 2015, it will be assumed that Respondents are not interested in settling this matter according to the terms described herein, and formal enforcement action be taken against both Respondents.

4. DEFAULT: The Respondents covenant and agree that if either Respondent violates any of the covenants of this Consent Order, Air Quality shall provide written notice to the default to Respondents party and the Respondents shall have five (5) days from receipt of notice to correct same. If said default is not corrected within 5 days, and without waiving any other remedies, Air Quality shall have the right to seek the remaining payment, including but not limited to increased enforcement penalties and attorney's fees, from both Respondents in a court of competent jurisdiction.

5. MODIFICATION: The terms of this Consent Order shall not be altered in any manner without written consent of the County. Such written consent may be given by the, County Administrator, or his Air Quality designee.

6. WAIVER: One or more waivers of any covenant or condition by the County shall not be construed as a waiver of a subsequent breach of the same covenant or conditions, and the consent or approval by County to or of any act by Respondents requiring the County's consent or approval shall not be construed a consent or approval to or of any subsequent similar act by Respondents.

7. EFFECTIVE DATE: This Consent Order shall be effective upon execution by the Board of County Commissioners and shall remain in effect until the total amount due for the violations referenced herein has been paid in full.

8. ENTIRE AGREEMENT: This Consent Order constitutes the entire agreement between the Parties with respect to the violations referenced herein. By signing this Order, Respondents hereby waive their rights to a judicial determination on the merits in this matter. Failure to comply with the terms of this Order, once signed by Respondents, shall constitute a violation of Chapter 58 of the Pinellas County Code and shall be the basis for further formal enforcement action. Respondents covenant and agree to pay all costs of collection, including reasonable attorney's fees, upon failure to satisfy the terms of compensation within this Order. The Board of County Commissioners, by countersigning this Order on behalf of the Air Quality Division, waives its right to seek judicial imposition of damages, or civil penalties against Respondents for the violations described above, unless Respondents are found in default of this Order.

-SIGNATURE PAGE TO FOLLOW-

***** RESPONDENTS *****

WATERSTONE CAPITAL
PORTOFINO AT LARGO, LLC

WITNESS SIGNATURE

DATE

7.23.15

BY: _____
RESPONDENT SIGNATURE

TITLE OF RESPONDENT

PORTOFINO AT LARGO
CONDO ASSOCIATION, INC.

WITNESS SIGNATURE

DATE

7.23.15

BY: _____
RESPONDENT SIGNATURE

PRINTED NAME OF RESPONDENT

TITLE OF RESPONDENT

Present ELI

Present

***** COUNTY *****

WITNESS SIGNATURE

DATE

BY: Commissioner John Moronni, Board of
County Commissioners, Chairman

Pinellas County Air Quality Division
509 East Ave. South, Ste. 138
Clearwater, Florida 33756

Approved as to form:

Assistant County Attorney

(Chris Wang)

ENTERED and FILED

day of _____, 2015, in Clearwater, Florida.

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF POSTAGE AND CERTIFIED MAIL LABELS

CERTIFIED MAIL



7013 2250 0000 4964 5071
7013 2250 0000 4964 5071

U.S. Postal Service
CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

CDH	Postage	\$
	Certified Fee	
	Return Receipt Fee (Endorsement Required)	
	Restricted Delivery Fee (Endorsement Required)	
	Total Postage & Fees	\$

Postmark
Here

Sent To Mr. Richard Wasserstein
 Street, Apt. No., or PO Box No. 1124 Kane Concourse
 City, State, ZIP+4 Bay Harbor, FL 33154

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Mr. Richard Wasserstein
 Waterstone Capital Portfolio
 at Largo LLC
 1124 Kane Concourse
 Bay Harbor Islands, FL
 33154*

2. Article Number
(Transfer from service label)

7013 2250 0000 4964 5071

COMPLETE THIS SECTION ON DELIVERY

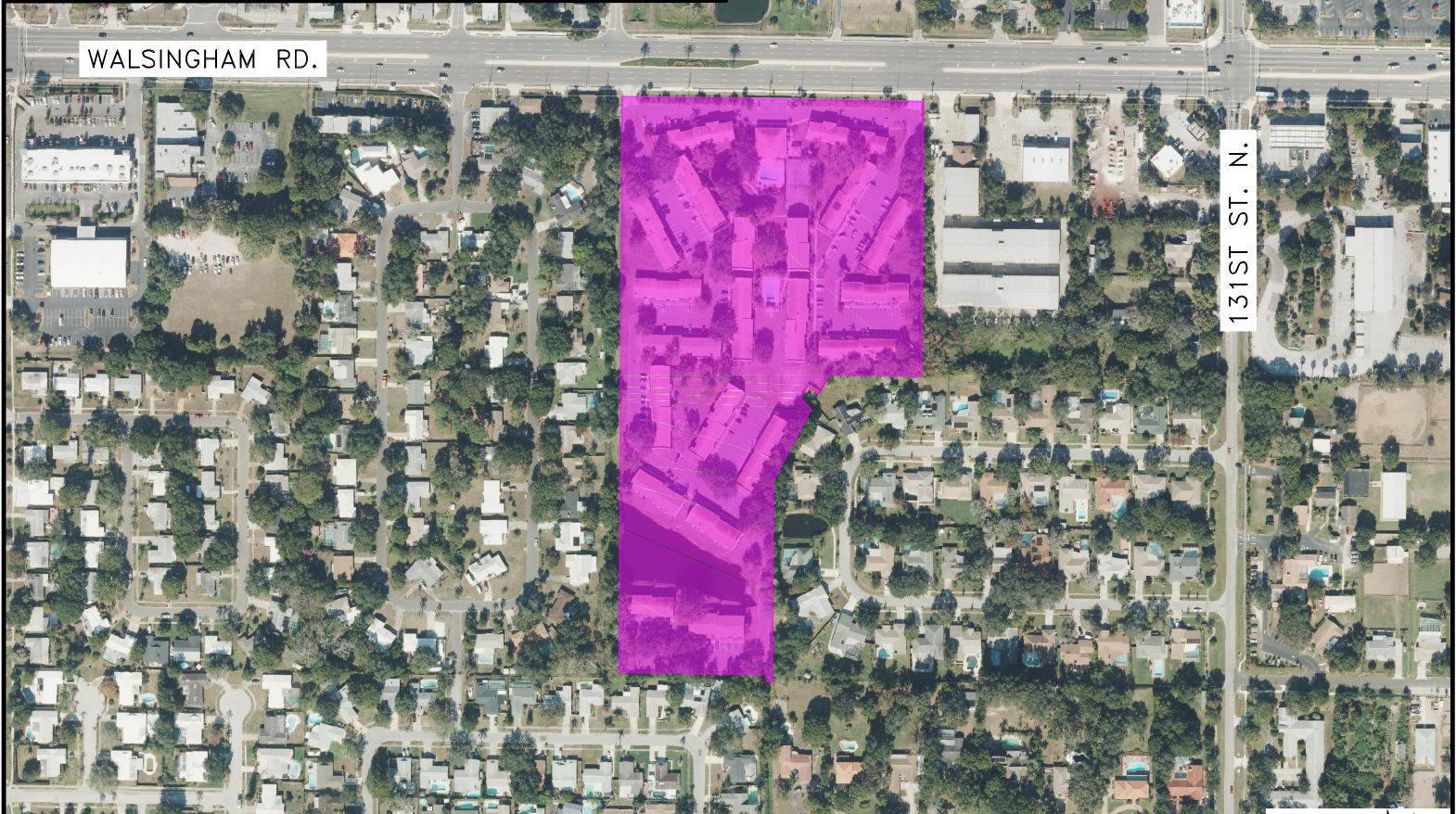
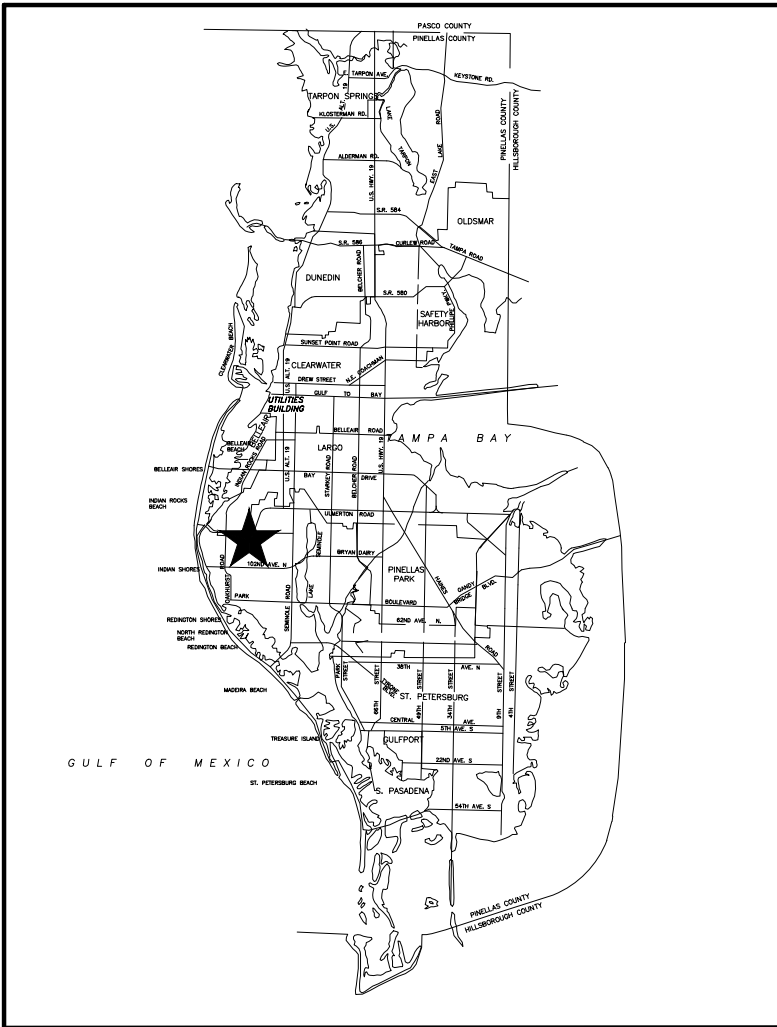
A. Signature ☒ Agent ☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail™ ☐ Priority Mail Express™
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ Collect on Delivery

4. Restricted Delivery? (Extra Fee) ☐ Yes



PORTOFINO AT LARGO CONDO ASSOCIATION LOCATION MAP