

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

BROWARD COUNTY,

Petitioner,

vs.

NOTICE OF VIOLATION
NOV23-0011

OLDCASTLE APG SOUTH, INC.,

Respondent.

_____ /

JOINT MOTION FOR AGREED FINAL ORDER

Petitioner, BROWARD COUNTY ("County"), by and through its Resilient Environment Department ("Department"), previously known as Environmental Protection and Growth Management Department (EPGMD), and Respondent, OLDCASTLE APG SOUTH, INC. ("Respondent"),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 January 25, 2024, to determine whether the Respondent violated Section 27-175(h) of the Code, which states:

"... No person shall cause, let, permit, suffer, or allow the emissions of particulate matter, from any source whatsoever, including but not limited to vehicular movement, transportation of materials, construction, alteration, demolition or wrecking, or industrial related activities such as loading, unloading, storing, handling, surface coating, or surface preparation without taking reasonable precautions to prevent such emission, as described in Subsection 27-177(b) of this article."

And Section 27-173 of the Code which states:

"The following provisions of the Florida Administrative Code ('F.A.C. '), as amended, are adopted and incorporated by reference into this article: ... ' 62-296 'Stationary Sources - Emission Standards,' ..."

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

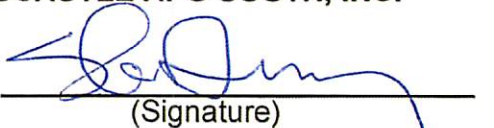
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RESPONDENT: OLDCASTLE APG SOUTH, INC.

2. Notice of Violation NOV23-0011 alleged that on or about November 8, 2022, at 1200 NW 18th Street Pompano Beach, FL 33069, Respondent was allowing excessive dust emissions from the building housing the product storage silos and from the conveyor system serving the rotary drum aggregate dryer and cooler in violation of Section 2. Administrative Requirements No.4 of Air Operation Permit No. 0110038-010-AO and in violation of 62-296.320(4)(c) F.A.C.
3. To further resolution of this cause without the need for 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.

Respectfully submitted by the Parties on this 6 day of February, 2024.

**RESPONDENT
OLDCASTLE APG SOUTH, INC.**

By: 
(Signature)

Print Name: Steve Berry

Title of Signatory: President

Company: Oldcastle APG South, Inc.

**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

Digitally signed by Deanna Kalil
Kalil
Date: 2024.01.25 14:06:37 -05'00'
By: Deanna Kalil
Deanna Kalil, Esq.
Assistant County Attorney
Florida Bar No. 1003878
Primary Email: dkalil@broward.org
Secondary Email: gbusacca@broward.org
Counsel for Broward County

Exhibit A

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Respondent.

AGREED FINAL ORDER

THIS CAUSE having come before the undersigned Hearing Examiner for the Broward County Resilient Environment Department ("Department"), previously known as Environmental Protection and Growth Management Department (EPGMD), on the joint motion of Petitioner, BROWARD COUNTY ("County"), and Respondent, OLDCASTLE APG SOUTH, INC., ("Respondent"),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**

Respondent shall pay a civil penalty of \$12,000 and administrative costs of \$300, for a total of \$12,300 within thirty (30) days from the date this Agreed Final Order is rendered in the County's files.

II. **Corrective Actions**

Respondent has implemented several measures to reduce fugitive dust emissions from the building housing the product storage silos and from the conveyor system serving the rotary drum aggregate dryer and cooler. This includes equipment, materials, internal resources, and external labor. Respondent shall maintain the use of these measures in a manner sufficient to reasonably prevent fugitive dust emissions from the operations.

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

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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 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 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. Respondent acknowledges and agrees 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.

DONE and ORDERED this _____ day of _____, 2024.

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RESPONDENT: OLDCASTLE APG SOUTH, INC.

Renee Clark, Esq.
Hearing Examiner

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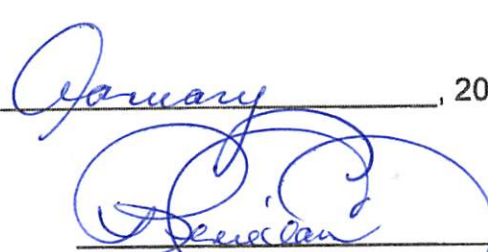
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DONE and ORDERED this 30th day of January, 2024.

Received
Broward County

FEB - 6 2024


Renee Clark, Esq.
Hearing Examiner