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Section VII Notices of Petitions and Dispositions Regarding Declaratory Statements

WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN that South Florida Water Management District has issued an order disposing of the petition for declaratory statement filed by Michael R. Kuebel and Sara L. Kuebel, Richard J. Dardas, Jo Ann Johnson, Trustee, and Carolyn T. Bracci, Eden on the Bay Subdivision, Collier County, Florida on July 29, 2011. The following is a summary of the agency's disposition of the petition:

The Petition was granted by the Governing Board of the South Florida Water Management District on October 13, 2011. The Order is limited to the specific information set forth in the Petition and the Permit. The District's determination is limited to the Petitioners' particular circumstances, not the conduct or responsibilities of the Association or Petitioners arising from Association organizational documents or other agreements. The Order is limited to Structural Buffers as identified in the Permit, which include those in the pool and recreation area, and the rear of lots 183 through 191. The Order does not address rights or obligations existing between the Association and the Petitioners as may be specified in the homeowners' association documents or other agreements between homeowners or Petitioners and the Association. Permitted structures or facilities are the obligation of the Permittee/Association under the Permit. These include the facilities specifically addressed in the Permit as the "structural buffer in the form of a pretreatment swale and hedge or a stem wall in the pool and recreation area, and the rear of lots 183 through 191." This Declaratory Statement specifically responds to the questions raised in the Petition as follows:

- a. Pursuant to the Permit, the Petitioners are not responsible under permit requirements to alter, operate, maintain, remove or abandon that portion of the Structural Buffer situated on their respective lots, to the extent that those facilities are identified in the Permit.
- b. The Structural Buffers, identified in the Permit, are part of the surface water management system for Eden on the Bay. This Statement does not apply to any Structural Buffers which are not identified in the Permit.
- c. The Structural Buffers identified in the Permit are required to be constructed, operated and maintained as part of the plans and specifications as set forth in the Permit.

- d. The Permit does not grant the Petitioners the power and authority to operate and maintain the Structural Buffers identified in the Permit.
- e. This Declaratory Statement does not make a determination as to whether the Petitioners have the responsibility, power or authority to operate, repair, maintain, remove or abandon the Structural Buffers on their property under Association documents or agreements between homeowners and the Association; nor does this Declaratory Statement make a determination as to whether Petitioners have any obligation to reimburse the Association for any work done by the association to operate, repair, maintain, remove or abandon the Structural Buffers on their property under Association documents or other agreements.
- f. This Declaratory Statement does not authorize any activities.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 2087 or (561)682-2087.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

NOTICE IS HEREBY GIVEN that the Division of Florida Condominiums, Timeshares, and Mobile Homes, Department of Business and Professional Regulation, State of Florida, has issued an order disposing of the petition for declaratory statement filed by Lugano Village Association, Inc., Docket No. 2011035408, on July 15, 2011. The following is a summary of the agency's disposition of the petition:

Lugano Village Association, Inc. is a condominium association for the four Lugano condominiums as defined in Section 718.103(2), Florida Statutes, but not the underlying villa units. The owners of the condominium units are subject to the governing documents as well as Florida's Condominium Act and the association must comply with Chapter 718, F.S., and the rules and regulations of the division as to the condominium units.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: Division Clerk, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2217.

Please refer all comments to: Janis Sue Richardson, Chief Assistant General Counsel, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2202.

NOTICE IS HEREBY GIVEN that the Division of Florida Condominiums, Timeshares, and Mobile Homes, Department of Business and Professional Regulation, State of Florida, has received the petition for declaratory statement from Julie Rawson, Unit Owner, In re: Osprey at Destin West Beach and Bay Resort Condo USN, Inc., Docket No. 2011049595, on October 11, 2011. The petition seeks the agency’s opinion as to the applicability of none cited as it applies to the petitioner.

Whether the Osprey at Destin West Beach and Bay Resort Condominium Association, Inc. may adopt a bylaw restricting an owner’s candidacy for election based on her election to another condominium board.

A copy of the Petition for Declaratory Statement may be obtained by contacting: Division Clerk, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2217.

Please refer all comments to: Janis Sue Richardson, Chief Assistant General Counsel, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2202.

NOTICE IS HEREBY GIVEN that the Division of Florida Condominiums, Timeshares, and Mobile Homes, Department of Business and Professional Regulation, State of Florida, has issued an order disposing of the petition for declaratory statement filed by Seawinds Property Owners Association, Inc., Docket No. 2011033321, on June 30, 2011. The following is a summary of the agency’s disposition of the petition:

Seawinds Property Owners Association, Inc., may not acquire a lease of property for the purpose of a management office without approval of at least seventy-five percent of the total voting interests, as required by Section 718.111(7)(a), Florida Statutes.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: Division Clerk, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2217.

Please refer all comments to: Janis Sue Richardson, Chief Assistant General Counsel, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2202.

DEPARTMENT OF HEALTH

NOTICE IS HEREBY GIVEN that the Florida Department of Health has declined to rule on the petition for declaratory statement filed by the Tampa Pain Relief Center, Inc. on July 27, 2011. The following is a summary of the agency’s declination of the petition:

The Final Order, which was filed on October 19, 2011, DENIES the petition. The denial is based on Petitioner’s pending litigation with the Department and that a petition may only address Petitioner's future conduct.

A copy of the Order Declining of the Petition for Declaratory Statement may be obtained by contacting: Amy Carraway, Deputy Agency Clerk, Department of Health, Division of Medical Quality Assurance, 4052 Bald Cypress Way, Bin #C01, Tallahassee, Florida 32399-3251, (850)245-4120.

Notice is hereby given that the Board of Medicine has received a Petition for Declaratory Statement filed on behalf of Pathwork Diagnostics, Inc., d/b/a Pathwork Diagnostics Laboratory on October 14, 2011. The Petitioner requests the Board’s interpretation of Section 458.303(1)(b), Florida Statutes. Specifically, the Petitioner seeks the Board’s determination that the Petitioner’s laboratory director/clinical consultant falls within the exception set forth in Section 458.303(1)(b), F.S., and therefore, Petitioner is not subject to the Florida licensure requirement mandated by the Florida Department of Health. The Board will consider this petition at its meeting scheduled for December 2-3, 2011, in Orlando, Florida.

Copies of the petition may be obtained by writing: Joy A. Tootle, Executive Director, Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253.

Notice is hereby given that the Board of Psychology has received a Petition for Declaratory Statement filed by Katharine S. Westie, Ph.D., ABPP, on October 10, 2011. The Petitioner seeks the Board’s interpretation of Section 456.003(4)(a), F.S., with regard to the rendering of psychological services by videoconference or telephone from her office in Michigan, in a confidential setting. The Board will consider this petition at its meeting scheduled for November 18, 2011.

Copies of the petition may be obtained by writing: Allen Hall, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3055.

Section VIII
Notices of Petitions and Dispositions
Regarding the Validity of Rules

Notice of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:

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