

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Sheryl G. Wood, General Counsel

**DATE:** June 10, 2010

**SUBJECT: Action Required**  
Authorization to file suit—  
Images at Pembroke Pointe, Homeowners Association, Inc., and all other appropriate parties – Enforcement Action for a Portion of Property Located at Section 18, Township 51, Range 41, Pembroke Pines, Broward County, Florida.

### **Background**

This is a request to resolve a violation for the use of water without a consumptive use permit by Images at Pembroke Pointe, Homeowners Association, Inc., (“Images”). Water Use Application No. 070515-17 was denied for lack of completeness on October 9, 2008. A Notice of Violation/Consent Agreement (“NOV/CA”) was sent to Images on December 12, 2008. District staff granted an extension and a revised NOV/CA was sent on May 12, 2009 due to changes in the Enforcement Penalty Matrix. Water Use Permit Application No. 090521-9 was submitted on May 21, 2009 for surface water landscape irrigation.

On June 11, 2009, the Governing Board issued Order No. 2009-168-CO-WU, authorizing the execution of a Consent Agreement with Images. The Order required Images to obtain a Water Use Permit within 180 days of execution of the Consent Agreement as well as pay the sum of \$1,000.00 in civil penalties and investigative costs.

On May 21, 2009, the Images submitted an application for a water use permit. On June 19, 2009, District staff transmitted a Request for Additional Information to Images. Images failed to respond to the Request for Additional Information. On March 12, 2010, a letter was sent by District staff advising the Applicant that staff would recommend the application for denial unless the Applicant responded within thirty days receipt of the letter. To date, no information has been received. On May 13, 2010, District staff sent a Certified letter to the Applicant, advising them that Application No. 090521-9 would be presented to the Governing Board at the June 10, 2010 meeting with a recommendation for denial due to lack of completeness.

Images is in violation of its Consent Agreement with the District, Order No. 2009-168-CO-WU. Images failed to obtain a water use permit and did not pay the civil penalty and investigative costs. As of the date of this memorandum, the District’s

attempts to resolve this matter have been unsuccessful. Images continues to use water without a permit.

**How this helps meet the District's 10 year Strategic Plan**

This action will enforce the provisions of the District's statutes and rules. This effort directly supports the Regulatory Program in Water Resources.

**Funding Source**

This litigation will be handled by the District's Office of Counsel.

**This Board item impacts what areas of the District, both resource areas and geography?**

The subject property is located in Broward County and the District seeks recovery related to non-compliance with permit conditions.

**What concerns could this Board item raise?**

If this matter is not resolved, the unauthorized withdrawal of water could continue. Office of Counsel desires a resolution that results in the issuance of a water use permit to Images at Pembroke Pointe Homeowners Association, Inc. However, if Images refuses to obtain a water use permit in a timely manner, the District will have no other recourse than to seek an injunction from the Court.

**Why should the Governing Board approve this item?**

The Governing Board should approve this item to resolve violations of unauthorized water use without the required permit and take appropriate action against all responsible parties.

If you have any questions, please do not hesitate to call me at extension 6976.

SGW/jdb