

**BEFORE THE GOVERNING BOARD OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

HIGHPOINT TOWER TECHNOLOGY, INC.,

Petitioners,

vs.

SOUTH FLORIDA WATER MANAGEMENT
DISTRICT,

SFWMD No. 2010-____ FOF ERP
DOAH Case No. 09-7041

Respondent.

_____ /

FINAL ORDER CLOSING FILE

The Governing Board of the South Florida Water Management District (District), being otherwise fully informed, hereby issues this Final Order Closing File as a result of the Order Closing File issued by the Administrative Law Judge on April 23, 2010, and as grounds states:

FINDINGS OF FACT

1. On December 23, 2009, the District issued an order which accepted a Petition for Administrative Hearing filed by Highpoint Tower Technology, Inc. (Petitioner) and referred the matter to the Division of Administrative Hearings (DOAH) for assignment of an administrative law judge (ALJ).

2. The Petition challenges the District's Denial of Request for Extension of Permit Duration, Permit Application No. 091013-10, for a project known as the Bokeelia Harbor Resort. The application is a request for a two-year extension pursuant to Section 14, Chapter 2009-96, Laws of Florida (Senate Bill 360), for Permit No. 36-05727, Application No. 040917-6.

3. On January 16, 2010, and on March 18, 2010, Petitioner filed Motions for Attorneys' Fees and Costs against the District.

4. On April 8, 2010, the ALJ issued an Order Relinquishing Jurisdiction in Part, which relinquished jurisdiction to the District to take final action on the Petitioner's request for extension of its permit, and retained jurisdiction to determine the pending claims for attorney's fees. A copy of the Order is attached hereto as Exhibit A.

5. On April 23, 2010, Petitioner withdrew its Motions for Attorneys' Fees and Costs and the ALJ issued an Order Closing File. A copy of the Order Closing File is attached hereto as Exhibit B.

6. On April 26, 2010, the District granted the 2-year permit extension to Petitioner, a copy of which is attached hereto as Exhibit C.

7. The Notice of Rights is also attached hereto as Exhibit D.

CONCLUSIONS OF LAW

8. The District is a water management district with the power and duty to exercise regulatory jurisdiction over the administration and enforcement of environmental resource permitting criteria pursuant to the provisions of Part IV of Chapter 373, Chapter 120, Florida Statutes, and Title 40E, Florida Administrative Code.

9. Section 120.569(2)(l), Florida Statutes, requires the District to render a Final Order in a proceeding which affects substantial interests within 90 days if no hearing has been conducted and after receipt of any materials authorized by the District.

ORDER

Based upon the foregoing, the Governing Board, being otherwise fully advised in the premises, hereby orders that the Order Relinquishing Jurisdiction in Part issued on April 8, 2010, and the Order Closing File issued on April 23, 2010, are hereby accepted, and the file is hereby closed.

Done and Ordered in West Palm Beach, FL 33406, this _____ day of May, 2010.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT
BY ITS GENERAL COUNSEL

Sheryl G. Wood, General Counsel

ATTESTATION

LEGAL FORM APPROVED

BY: _____
South Florida Water Management District
Assistant Secretary

BY: _____

ON: _____

ON: _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing have been furnished by regular U.S. Mail this _____day of May, 2010, to: Kenneth G. Oertel, Esq., Oertel, Fernandez, Cole & Bryant, P.A., 301 South Bronough Street, Post Office Box 1110, Tallahassee, FL 32302-1110.

By: _____
Douglas H. MacLaughlin, Esq.
Florida Bar No. 251054
South Florida Water Management
District
3301 Gun Club Road, MSC 1410
West Palm Beach, FL 33406
Telephone: (561) 682-2153
Facsimile: (561) 682-6276