

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
ADMINISTRATIVE ADJUDICATION DIVISION

IN RE: Mafalda Mura  
Notice of Violation No. C90-0109

DECISION ON RESPONDENT'S REQUEST TO DEFAULT  
ROSCITI CONSTRUCTION CO. OR REQUIRE THE COMPANY TO  
FILE AN ANSWER

DECISION AND ORDER

A motion was filed by the attorney for Mafalda Mura requesting this tribunal require Rosciti Construction Company to file an answer to Respondent's duly-filed Third-Party Complaint or in the alternative find the company in default. In the body of his motion, the movant refers to two entities: "Rosciti Construction Company" and "Rosciti Construction, Inc." The Hearing Officer cannot decipher if Respondent is referencing a different business or if he is using the different titles interchangeably.

This confusion is somewhat alleviated by the fact that Respondent served Rosciti Construction, Inc., with a copy of this motion and a duly-filed objection was submitted by Attorney Bruce Leach, attorney for the Receiver for Rosciti Construction, Inc. The issues addressed by the Hearing Officer in this decision and order will apply to Respondent and Rosciti Construction, Inc. If Rosciti Construction Co. is a different entity, Respondent will need to properly serve and address his motions to that business.

Documentation supplied by Mr. Leach and undisputed by Respondent clearly shows that Rosciti Corporation, Inc., is in receivership. The Administrative Adjudication Division (AAD) has an express delegation of authority pursuant to R.I.G.L. 42-17.7-2. This statute allows AAD to adjudicate all contested enforcement, licensing and adjudicatory proceedings for environmental matters. This authority is limited in scope and does not encompass matters in receivership.

In addition, on November 15, 1990 the Superior Court entered an order in the matter of Shawmut Bank of RI N.A. v. Rosciti Const., Inc. PM No. 90-6631 which states in pertinent part:

The commencement, prosecution, or continuance of the prosecution of any action, suit, arbitration proceeding, hearing or any foreclosure, reclamation or repossession proceeding whether judicial or non-judicial, or any other proceeding, in law or in equity, under any statute or otherwise, against Rosciti Construction, Inc., or any of its property, in any court, agency, tribunal, or elsewhere, or before any arbitrator, or otherwise, by any creditor, stockholder, corporation, partnership or any other person, or the levy of any attachment, execution or other process upon or against any property of Rosciti Construction, Inc., or the taking or attempting to take into possession any property in the possession of Rosciti Construction, Inc., or of which Rosciti Construction has the right to possession, by any of such parties as aforesaid, other than such Receiver, or the termination of telephone, electric, gas or any other utility service to Rosciti Construction, by any public utility, without obtaining approval thereof from this Court, in which connection said Receiver

shall be entitled to prior notice and an opportunity to be heard, are hereby restrained and enjoined until further Order of this Court.

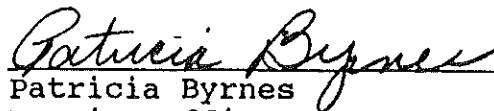
In accordance with the Court's ruling, this tribunal is restrained from deciding or in any way acting upon Respondent's request.

Therefore, it is hereby

ORDERED

1. Respondent's motion as it refers to Rosciti Construction, Inc., is denied.

Entered as an Administrative Order this 21<sup>st</sup> day of  
May, 1992.



Patricia Byrnes  
Hearing Officer  
Department of Environmental Management  
Administrative Adjudication Division  
One Capitol Hill, 4th Floor  
Providence, RI 02908

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CERTIFICATION

I hereby certify that I caused a true copy of the within Decision and Order to be forwarded via regular mail, postage prepaid to James Cardono, Esq., 36 Park Place, P. O. Box 36, Pawtucket, RI 02862-0036 and via interoffice mail to Catherine Robinson Hall, Esq., Office of Legal Services, 9 Hayes Street, Providence, RI 02908 on this 22nd day of May, 1992.

David L. Stewart