

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE AND INSPECTION

In Re: Athanasios Rekaris

File No.: OCI-OWTS-16-5

AAD No.: 17-004/IE

CONSENT AGREEMENT

A. INTENT & PURPOSE

This Agreement is entered by and between the Rhode Island Department of Environmental Management's Office of Compliance & Inspection (the "RIDEM") and Athanasios Rekaris (the "Respondent"). This Agreement is entered in accordance with Section 42-17.1-2 *et seq.* of the Rhode Island General Laws ("R.I. Gen. Laws") to resolve the administrative enforcement action set forth in a Notice of Violation ("NOV") issued to Respondent by the RIDEM on 28 November 2017.

B. STIPULATED FACTS

- (1) WHEREAS, the property is located at 18 Heights Avenue, Assessor's Plat 335, Lot 37, in the City of Warwick, Rhode Island (the "Property"). The Property includes a 3-bedroom dwelling (the "Dwelling").
- (2) WHEREAS, Respondent owns the Property and occupies the Dwelling.
- (3) WHEREAS, on 28 November 2017, the RIDEM issued an NOV to Respondent alleging certain violations of the RIDEM's *Rules Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Onsite Wastewater Treatment Systems* (the "OWTS Regulations"). The violations pertained to the failure of the onsite wastewater treatment system ("OWTS") that treats wastewater from the Dwelling.
- (4) WHEREAS, Respondent requested an administrative hearing to contest the NOV.
- (5) WHEREAS, the RIDEM was informed by the Warwick Sewer Authority (the "WSA") that on or before 31 December 2020 Respondent will be able to connect the plumbing from the Dwelling to the public sewerage system.
- (6) WHEREAS, in lieu of proceeding to an administrative adjudicatory hearing on the NOV and to effect a timely and amicable resolution of the NOV, the RIDEM and Respondent hereby agree that it is in the best interest of the parties and in the public interest to resolve the issues raised in the NOV.

- (7) WHEREAS, the RIDEM finds that this Consent Agreement is a reasonable and fair settlement and adequately protects the public interest in accordance with the RIDEM's OWTS Regulations.

C. AGREEMENT

- (1) JURISDICTION – The RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over Respondent.
- (2) FORCE and EFFECT – This Agreement shall have the full force and effect of a final compliance order issued after a full hearing on the merits pursuant to the Administrative Procedures Act, R.I. Gen. Laws Section 42-35-1 et seq. from which no timely appeal was taken, and which is enforceable in Superior Court in accordance with R.I. Gen. Laws Section 42-17.1-2(21)(vi).
- (3) APPLICATION – The provisions of this Agreement shall apply to and be binding upon the RIDEM, Respondent and his agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for Respondent in the performance of work relating to or impacting the requirements of this Agreement.
- (4) CONDITIONS
- (a) **Within 30 days of execution of the Agreement**, install low flow water fixtures on the shower and sinks in the dwelling at the Property and install a 1.6-gallon flush toilet and provide an affidavit to the RIDEM from a licensed plumber certifying that the fixtures and toilet were installed.
 - (b) Until the plumbing from the Dwelling is connected to the public sewerage system,
 - (i) Retain a licensed septage hauler to pump the OWTS **as often as necessary** to prevent all sanitary sewage from overflowing to the surface of the ground; and
 - (ii) Limit the occupancy of the dwelling to no more than 3 persons.
 - (c) **Within 30 days of receiving notification from the WSA that public sewers are available**, connect all the plumbing from the Dwelling to the public sewerage system and abandon the OWTS in accordance with Rule 52 of the RIDEM's OWTS Regulations.
 - (d) **Within 7 days of completion of the work in Section C (4)(c) above**, submit documents to the RIDEM showing that the work was completed.

- (e) Penalty – Respondent shall pay to the RIDEM administrative penalties assessed as follows:
- (i) **Upon execution of this Agreement by Respondent**, pay to the RIDEM \$200;
 - (ii) Penalties that Respondent agrees to pay in this Agreement are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
 - (iii) All penalty payments shall be in the form of a certified check, cashier's check, or money order, payable to the ***R.I. General Treasurer – Water and Air Protection Account***. All payments shall be delivered to:

Chief, RIDEM Office of Compliance and Inspection
235 Promenade Street
Providence, RI 02908-5767

- (5) RIGHT OF ACCESS – Respondent provides to the RIDEM, its authorized officers, employees and representatives an irrevocable right of access to the Property at all reasonable times to monitor compliance with this Agreement. Respondent shall ensure that assignees, successors in interest, lessees, sublessees, tenants in possession and/or occupants of the Property shall provide the same access and cooperation if they control the Property. Respondent shall provide a copy of this Agreement to any current lessee, sublessee, tenant in possession and/or occupant of the Property as of the effective date of this Agreement. Any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property shall include this right of access provision and shall otherwise be consistent with the terms of this Agreement.

D. COMPLIANCE

- (1) EFFECT OF COMPLIANCE – Compliance with and fulfillment of this Agreement shall be deemed to resolve all issues raised in the NOV. Upon Respondent's successful completion of the requirements set forth in this Agreement, the RIDEM shall issue a Release and Discharge of the NOV and the Agreement to Respondent for recording. The recordings shall be at the sole expense of Respondent.
- (2) FAILURE TO COMPLY – If Respondent fails to comply with the items specified in Section C(4) of the Agreement, Respondent shall pay a stipulated penalty of \$100 per month for each month during which the noncompliance continues, except that the RIDEM may, for good cause shown, defer or reduce such penalty. The payment of a penalty in accordance with this section shall not preclude the RIDEM from seeking any other appropriate remedy (e.g., injunctive relief in Superior Court).

- (3) COMPLIANCE WITH OTHER APPLICABLE LAWS – Compliance with the terms of this Agreement does not relieve Respondent of any obligation to comply with any other applicable laws or regulations administered by, through or for the RIDEM or any other governmental entity.
- (4) ADDITIONAL ENFORCEMENT ACTIONS – Upon a determination by the Director that there is a threat to the public health or the environment, or upon discovery of any new information, the RIDEM reserves the right to take additional enforcement actions as provided by law or regulation, including, but not limited to, the issuance of “Immediate Compliance Orders” as authorized by R.I. Gen. Laws Section 42-17.1-2(21). This Agreement shall not restrict any right to hearing or other right available by statute or regulation that Respondent may have regarding any new enforcement action commenced by the RIDEM after the execution of this Agreement.
- (5) FUTURE ACTIVITIES AND UNKNOWN CONDITIONS – This Agreement shall not operate to shield Respondent from liability arising from future activities, as of the date of execution of this Agreement.
- (6) SCOPE OF THE AGREEMENT – The scope of the Agreement is only violations alleged in the NOV.
- (7) NOTICE AND COMMUNICATION – Communications regarding this Agreement shall be directed to:

Stephen Tyrrell
RIDEM Office of Compliance and Inspection
235 Promenade Street
Providence, RI 02908-5767
(401) 222-1360 ext. 7406

Joseph J. LoBianco
RIDEM Office of Legal Services
235 Promenade Street
Providence, RI 02908-5767
(401) 222-6607 ext. 2302

Athanasios Rekaris
18 Heights Avenue
Warwick, RI 02889

(401) 660-5851

- (a) At any time prior to full compliance with the terms of this Agreement, Respondent agrees to notify the RIDEM in writing of any change in ownership of the Property, and provide the name and address of the new owner(s). Notice of any change in address/telephone/fax of either party shall be sent to all other parties by certified mail.

- (b) All communications regarding compliance with this Agreement shall be forwarded to the above-referenced addressees by certified mail.
- (8) DEFERRAL – The Director may, for good cause shown, defer any of the compliance dates prescribed herein. Good cause for deferral of any compliance date shall be forwarded to RIDEM in writing at least fifteen days prior to the prescribed deadline.
- (9) AMENDMENT – The Agreement may be amended by agreement of the parties in writing.
- (10) EFFECTIVE DATE – This Agreement shall be deemed entered as of the date of execution by all parties.

IN WITNESS WHEREOF, the undersigned consent to this Agreement in substance and in form.

Athanasios Rekaris

 By: _____ (Print Name)
 Dated: _____

STATE OF RHODE ISLAND
COUNTY OF _____

In _____, in said County and State, on this _____ day of _____, 2018, before me personally appeared Athanasios Rekaris to me known and known by me to be the party executing the foregoing instrument and he acknowledged said instrument and the execution thereof, to be his free act and deed.

 Notary Public
 My Commission Expires: _____

For the State of Rhode Island Department of
Environmental Management

David E. Chopy, Chief
Office of Compliance and Inspection

Dated: _____