



MASTER ASSOCIATION BOARD OF DIRECTORS  
Riviera Dunes Resort & Yacht Club, Palmetto, Florida 34221

March 17, 2020

RE: Mobile Fueling

Dear Board,

We have been working with Mr. Anthony Pidala, Florida Department of Environmental Protection Southwest District Environmental Consultant in Tampa FL on the issue regarding mobile fueling in our community. As you know, our harbor is one of the greatest assets of our community. The ability to have docks and boat slips in our backyard is a privilege. In investigating the issues of mobile fueling and number of vessels allowed per slip we found there is an extensive permitting history on this site. Mr. Pidala is one of the officials who did work on the Riviera Dunes project during development.

We prepared a written request to FDEP on March 4, 2020 asking what conditions were allowed according to our DEP permits. One condition we asked for clarification on was whether we could allow owners to fuel their personal watercraft via Mobile fueling companies if the companies are certified & licensed properly. The Master Association has been challenged by a neighborhood HOA due to the fact that prior to 2013 they were able to use Mobile fueling trucks to fuel their boats from their own docks. We asked for clarification as to the reasons that caused the rules to change regarding Mobile fueling in 2013.

We believed information in the documentation during the 2013 investigation ([attachment #001](#)) that was submitted to Florida Department of Environmental Protection Southwest District was incorrect. As such, a recent letter dated February 27, 2020 from NORTH RIVIER FIRE DISTRICT states the information given at that time proved to be inaccurate and unreliable and we wanted to revise the data. We have attached scanned copies of both the 2013 letter and new letter dated 2020. ([attachments #002A & #002B.](#))

Since the challenge by the HOA, we have done a lot of investigation around Mobile fueling. We believed that the DEP conditions prohibiting a "fueling facility" was defined as a fueling station type instrument on a dock like what is at the marina. We did not believe a mobile fuel truck coming into a community was defined as a "fueling facility" as defined by the DEP's own regulations. The Riviera Dunes permit 41-01727573-025 ([attachment #003 & #004](#)) refers to "fueling facility". We wanted to reiterate that we are NOT asking to modify the "fueling facility" stipulation in the permits. We do NOT want additional fueling "facilities". We are simply asking if "MOBILE FUELING" is prohibited since mobile fueling is allowed according to the state.

The answer provided March 13, 2020 by the Division in Tallahassee email ([attachment #005](#)), confirmed the Department's position in the attached DEP letter from 2013 still stands. The reason stated for NOT allowing mobile fueling is due to the poor water conditions in the flushing channel and harbor. She specially addressed the poor "flushing" and water quality conditions within the Riviera Dunes boat mooring basin and stated that we cannot authorize any activities that may cause or contribute to already impaired water quality conditions. The man-made basin is considered a Class III (Fish



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Consumption, Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife.

She also stated that FDEP typically prohibits over-the-water fueling at ALL docking facilities, because there is no way to ensure incidental spills, even minor ones, will not occur. Even minor spills could have a cumulative effect on the waterbody, particularly one that is already impaired. I'm sorry for any inconvenience this poses to residents in the community, but it is an important safeguard we will need to uphold.

The Riviera Dunes Permit 41-01727573-025 is subject to the limits, conditions and locations of work that are located in the attached drawings and is also subject to the 25 General Conditions and 14 Specific Conditions ([attachment #003 & #004](#)), which are a binding part of this permit.


See SPECIFIC CONDITIONS: Operating Conditions: #6([attachment #003](#)). Also, Riviera Dunes has done extensive water monitoring over the years and the Marina still monitors to date. Any violation of the specific conditions could jeopardize our DEP permits.

There was a lawsuit and order of judgment and stipulation awarded in 2013 wherein a homeowner in The Homes of Riviera Dunes was violating one of these specific conditions. A lawsuit was filed against Mark & Kathleen Edington by the Homes HOA and Master Association. The defendants (The Edingtons) agreed to abide by the Joint Order to Stipulation prohibiting dockside refueling as described in the lawsuit and Order. See joint stipulation items. #2 A, B, C, D ([attachment #006](#)) documents.

The parties entered into an Ex Parte permanent injunction if the request by either Plaintiff confirming the Joint Stipulation has been violated as a result of the Defendants having fueled a vessel dockside that was not located within the commercial marina. The Defendants were also required to pay \$4000 as legal expenses.

As a result, at this time, the Master Association must uphold the legal precedent set and the DEP guidelines that any mobile fueling activities would violate our DEP permit and thereby jeopardize our ability to enjoy the most prized asset of our community, our harbor and waterways.

It is the position of the Master Association to continue to protect our DEP permits and ensure ALL residents in our community abide by the DEP regulations of these permits and PROHIBIT all mobile fueling. Please ensure all of your community association rules and regulations abide by these regulations to prohibit this type of activity. If any violation occurs, it is the responsibility of everyone to report such violation to this Master Association Board of Directors for further action in order to protect our harbor and water accessibility. Remember, it is our privilege and responsibility to maintain these permits. If you have any questions, please don't hesitate to contact me or Deb Sperry.

Sincerely,  
  
Slay Hawkinberry, President  
Riviera Dunes Master Association



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**Attachments:**

Homes HOA

Attached a copy of the Home's HOA Marina Rules and Regulations. (attachment #007)

Attached a copy of the DGH Insurance letter for the Homes. (attachment #008)

Research Documentation

Document 14 -Water Resources (attachment #009)

Document Clean Marina Action Plan (attachment #010)

Riviera Dunes Master Association

Document – Minutes 11.16.2012 (attachment #011)