

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

[Filed: March 6, 2017]

CFD REALTY, LLC and
JS PALLET CO., INC.

VS.

STATE OF RHODE ISLAND,
DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT

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C.A. No. PC-2012-6591

AMENDED DECISION

MONTALBANO, J. This Amended Decision is being filed to correct errors in the original Decision filed on March 3, 2017.

On page 10, under the section “Issue,” the paragraph should read as follows:

“The issue before this Court, regarding whether Hearing Officer Spinella’s Decision and Order, as amended, was supported by reliable, probative, and substantial evidence in the record and was not clearly erroneous or affected by error or law, is twofold: (1) whether Appellants’ post-purchase use of the property resulted in distinctly new violations of § 2-1-21 and Rules 7.01 and 5.01 of the RIDEM Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act, and (2) whether Appellants are in fact responsible for such violations, despite RIDEM’s failure to record or enforce the 1980 NOV.”

On page 12, line 6, the following sentence is deleted:

“Hearing Officer Spinella found as a fact that Appellants commenced additional prohibited buffer zone alterations after RIDEM issued the NOIE. See AAD Decision and Order 2-3 (Oct. 31, 2012); see also AAD Hr’g Tr. 34-35.”

On page 17, six lines from the top, the first full sentence should read:

“In planning for land development, such as Appellants’ new installations and storage needs, a potential buyer must be aware of the potential for federal and state permitting requirements.”

Lastly, on page 18, under the Conclusion section, an additional sentence has been added to the end of the first paragraph:

“Substantial rights of the Appellants have not been prejudiced.”

The remaining contents of the Decision filed on March 3, 2017 remain the same.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: CFD Realty, LLC and JS Pallet Co., Inc. v. State of Rhode Island, Department of Environmental Management

CASE NO: PC-2012-6591

COURT: Providence County Superior Court

DATE DECISION FILED: March 6, 2017

JUSTICE/MAGISTRATE: Montalbano, J.

ATTORNEYS:

For Plaintiff: Thomas More Dickinson, Esq.

For Defendant: Joseph J. Lobianco, Esq.