

SEVENTEENTH JUDICIAL DISTRICT COURT  
PARISH OF LAFOURCHE  
STATE OF LOUISIANA

NUMBER:

127971

SECTION:

LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS

v.

**DIVISION B**

ALLEN RAY CUEVAS

\*\*\*\*\*

**PETITION FOR PRELIMINARY AND PERMANENT INJUNCTION**

The petition of the **Louisiana Department of Health and Hospitals, Office of Public Health (hereinafter "DHH")**, represented herein by Jimmy Guidry, M.D., its duly appointed State Health Officer, acting herein through undersigned counsel, respectfully represents:

1.

DHH has jurisdiction and authority to enact and enforce the Louisiana Sanitary Code (Louisiana Administrative Code Title 51) pursuant to La. R.S. 40:4, 40:5, and 40:6(C)(2).

2.

Made defendant herein is **ALLEN RAY CUEVAS**, a person of full age of majority, domiciled in Louisiana, whose address is 122 West 116<sup>th</sup> Street, Cut Off, Louisiana 70345.

3.

**ALLEN RAY CUEVAS** (hereinafter "Defendant") is the owner of properties (hereinafter the "properties"), located at 106, 108, and 110 West 116<sup>th</sup> Street, Cut Off, Louisiana 70345. DHH inspections of the properties and correspondence with Defendant reveal that three mobile homes are located on the properties, and that Defendant rents or leases the properties (i.e. the bare land) and/or the mobile homes located thereon to various tenants for occupancy as residences.

4.

DHH inspections of the properties also reveal that the mobile homes located thereon are not connected to a community sewage system, and the onsite sewerage treatment system(s) to which they are connected are not permitted by DHH as required by the La. Sanitary Code Part XIII §701 and La. R.S. 40:4(A)(6).

5.

In addition to being un-permitted, the onsite sewerage treatment systems located on the

properties are, possibly in conjunction with plumbing fixtures on the properties that fail to comply with Sanitary Code Part XIII §301, allowing untreated or partially treated sewage to be released onto the ground, into neighboring yards, and into a nearby storm drainage ditch, in violation of Sanitary Code Part XIII §305.

6.

Sanitary Code Part XIII §303(A) provides:

**§303. Responsible Parties**

A. A person who owns, operates, manages, or otherwise controls any premises, shall provide for sewage disposal in a manner which is in compliance with this Code.

7.

Despite having being served by DHH with *Notice(s) of Violation*, a *Compliance Order*, and a subsequent *Notice and Order of Imposition of Penalty*, Defendant has failed or refused to comply with Sanitary Code Part XIII §303(A).

8.

Pursuant to La. R.S. 13:4581, DHH is not required to furnish the security otherwise required by La. Code of Civil Procedure Article 3610 for the issuance of injunctive relief.

9.

Defendant should be ordered to show cause why a preliminary writ of injunction should not issue herein restraining, enjoining, and prohibiting Defendant from renting, leasing, or otherwise allowing occupancy of any mobile homes or other dwellings on the properties until such time as the Defendant connects the properties to a DHH-approved community sewerage system or installs onsite sewerage system(s) that comply with La. Sanitary Code Part XIII.

10.

In due course, a final injunction should issue herein in the form and substance of the preliminary writ of injunction.

11.

Venue is proper in LaFourche Parish pursuant to La. Code of Civil Procedure Art. 42.

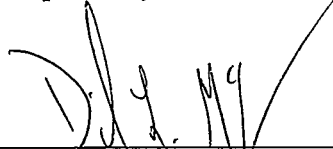
12.

DHH's filing of this Petition and attached/related documents should be free from payment of any costs of court in accordance with La. R.S. 40:31, which exempts DHH, and its agents and subdivisions, from court costs in any suit.

WHEREFORE, Petitioner prays that the Defendant be served with citation and a certified copy of this petition, the rule to show cause, and order of this Honorable Court assigning the date and hour of the trial thereon, and after due proceedings, that there be judgment in favor of Petitioner, DHH, and against Defendant, Allen Ray Cuevas as follows, and that the following orders issue herein:

- A. Ordering the issuance of a rule nisi directed to the Defendant to show cause why a preliminary writ of injunction should not issue herein restraining, enjoining, and prohibiting Defendant from renting, leasing, or otherwise allowing occupancy of any mobile homes or other dwellings on the properties until such time as the Defendant connects the properties to a DHH-approved community sewerage system or installs onsite sewerage system(s) that comply with La. Sanitary Code Part XIII.
- B. In due course, ordering the issuance of a final injunction in the form and substance of the preliminary injunction.
- C. Assessing all costs of this proceeding against Defendant.
- D. Granting DHH any other relief as the Court deems just and proper.

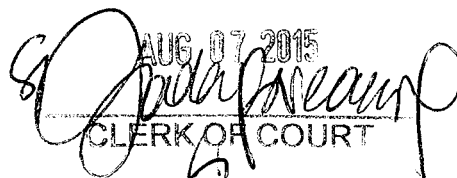
Respectfully Submitted:



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David L. McCay (Bar Roll No. 23527)  
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FILED

AUG 07 2015  
  
CLERK OF COURT

SEVENTEENTH JUDICIAL DISTRICT COURT  
PARISH OF LAFOURCHE  
STATE OF LOUISIANA

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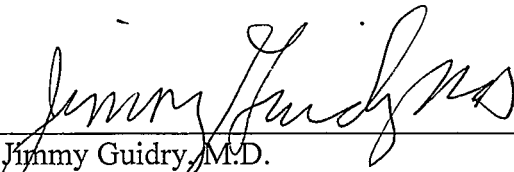
ALLEN RAY CUEVAS


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**VERIFICATION**

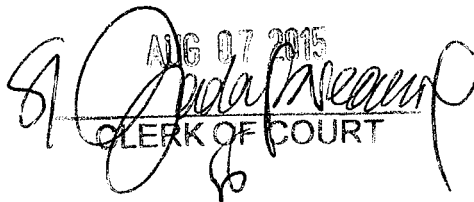
BEFORE ME, the undersigned Notary, personally came and appeared Jimmy Guidry, M.D., who did depose and say that he is the DHH State Health Officer, and that all of the allegations contained in the foregoing Petition for Preliminary and Permanent Injunction are true and correct to the best of his knowledge, information and belief.

THUS DONE AND PASSED, before me the undersigned Notary, this 31<sup>st</sup> day of July, 2015, at Baton Rouge, Parish of East Baton Rouge, State of Louisiana.

  
\_\_\_\_\_  
Jimmy Guidry, M.D.  
State Health Officer

  
\_\_\_\_\_  
NOTARY PUBLIC  
DAVID L. McCAY  
LA BAR ROLL #23527  
NOTARY PUBLIC, STATE OF LOUISIANA  
MY COMMISSION IS FOR LIFE

FILED

  
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**ORDER**

Considering the foregoing Petition for Preliminary and Permanent Injunction filed by Petitioner, the Louisiana Department of Health and Hospitals:

**IT IS ORDERED** that the Defendant, Allen Ray Cuevas, appear and show cause on the 14th day of October, 2015, at 1:30 o'clock, p. M., why a preliminary and, in due course, a final injunction should not be issued enjoining Defendant from renting, leasing, or otherwise allowing occupancy of any mobile homes or other dwellings on the properties (106 West 116<sup>th</sup> Street, 108 West 116<sup>th</sup> Street and 110 West 116<sup>th</sup> Street, Cut Off, Louisiana 70345) until such time as the Defendant connects the properties to a DHH-approved community sewerage system or installs onsite sewerage system(s) that comply with La. Sanitary Code Part XIII; and why the Defendant should not be cast with all costs of these proceedings.

THUS DONE AND SIGNED, this 1st day of September, 2015, at Thibodaux, Louisiana.

St Steven Miller  
\_\_\_\_\_  
JUDGE  
Seventeenth Judicial District Court

**PLEASE SERVE CITATION, PETITION, ORDER, AND MEMORANDUM ON:**

Allen Ray Cuevas  
122 West 116<sup>th</sup> Street  
Cut Off, Louisiana 70345

A TRUE COPY  
Clerk of Court's Office

FILED

St [Signature]  
AUG 07 2015  
CLERK OF COURT

Thibodaux, La Sept 15 2015  
[Signature]  
Clerk of Court

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**MEMORANDUM IN SUPPORT OF  
PETITION FOR PRELIMINARY AND PERMANENT INJUNCTION**

NOW INTO COURT, through undersigned counsel, comes the Louisiana Department of Health & Hospitals (“DHH”), through undersigned counsel, who respectfully offers the following in support of the *Petition for Preliminary and Permanent Injunction* filed herein.

**FACTUAL BACKGROUND**

The relevant facts concerning the actions/omissions of the Defendant, Allen Ray Cuevas, are straightforward and are delineated in the *Petition for Preliminary and Permanent Injunction* that this memorandum accompanies. Defendant owns three lots in Cut Off, Louisiana that he rents/leases to various tenants for placement of mobiles homes that are occupied as residences, but Defendant has failed or refused to provide the lots with proper sewage disposal as required by La. Sanitary Code Part XIII §303(A).

**LAW AND ARGUMENT**

DHH has express authority under La. R.S. 40:6(C)(2) to seek injunctive relief for violations of the La. Sanitary Code (Louisiana Administrative Code Title 51). Injunctive relief is necessary and proper in this matter because of Defendant’s refusal to comply with Sanitary Code Part XIII, resulting in the continued release of untreated or partially treated sewage onto the ground, into neighboring yards, and into a nearby storm drainage ditch, in violation of Sanitary Code Part XIII §305. Because such injunctive relief is expressly provided for by La. R.S. 40:6(C)(2), and because the Defendant’s actions are expressly prohibited by law, there is no requirement that DHH demonstrate irreparable harm.

CONCLUSION

For the foregoing reasons, in addition to the facts and details set forth in the petition filed herein, petitioner DHH requests that this court order injunctive relief as prayed for in said petition.

Respectfully Submitted:



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