

MEETING NOTICE/AGENDA

FLOOD CONTROL DISTRICT
BOARD OF HEARING REVIEW

1:00 p.m., Tuesday, January 11, 2022

Please Note: Due to the impacts of the COVID-19 pandemic, this meeting will be held via Microsoft Teams technology to avoid large gatherings and promote social distancing. You can also join the meeting by dialing the following phone number and entering the attached Conference ID number.

[+1 213-279-1657](tel:+12132791657) United States, Los Angeles (Toll)

Conference ID: 898 043 688#

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Debbie Grijalva 724-4602. Requests should be made as early as possible to arrange the accommodation.

- I. Call to Order
Pledge of Allegiance
- II. Green Things, Inc. Appeal – Discussion and Approval of Final Written Order
- III. Adjournment



 **DRAFT**

PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT

**Board of Hearing Review
FINAL WRITTEN ORDER**

HEARING DATE: December 13, 2021 **NOTICE OF VIOLATION NUMBER:** 20-486
RESPONDENT: Green Things, Inc.

Based on the information presented to the Chief Engineer as well as the written request for review, and the Chief Engineer's final report and as authorized by A.R.S. § 48-3615.01(I) and Floodplain Management Ordinance § 16.64.070, the Board of Hearing Review (the "Board") makes the following findings of fact and conclusions of law:

1. Green Things, Inc. owns the property located at 3384 E. River Road, Tucson, Arizona 85718 (the "Property").
2. Green Things has constructed or changed the permitted use of five structures on the Property without a Floodplain Use Permit required by Floodplain Management Ordinance § 16.20.010 and in violation of Floodplain Management Ordinance § 16.64.010(D).
3. The Chief Engineer of the Pima County Regional Flood Control District, through the Floodplain Administrator, issued Notice of Violation 20-486 to Green Things on September 28, 2020. The Notice of Violation identified each of the five structures on the Property that Green Things constructed or changed the use in violation of the Floodplain Management Ordinance.
4. At the hearing on the Notice of Violation on August 19, 2021, a representative of the District and a representative of Green Things presented evidence to the hearing officer. After the completion of the hearing, the hearing officer issued written Findings and Recommendations on August 23, 2021. The hearing officer recommended that the Chief Engineer enter a final decision finding Green Things in violation of 16.64.010(D) for each of the five structures. The hearing officer also recommended the Chief Engineer order that Green Things abate the violation by "submitting an application and all of the supporting documentation to obtain a Floodplain Use Permit for each of the affected buildings or structures" and order Green Things to pay a civil penalty.
5. The Chief Engineer entered a Final Decision and Order on August 24, 2021 that finds Green Things in violation of Floodplain Management Ordinance § 16.64.010(D) for failing to obtain or comply with the conditions of a Floodplain Use Permit as required by Floodplain Management Ordinance § 16.20.010. The Chief Engineer ordered Green Things to apply for a Floodplain Use Permit for all structures within 6 weeks and to obtain the permit and comply with all terms and conditions of the permits for all structures within 6 months. The Chief Engineer imposed a civil penalty against Green Things in the amount of \$10,000 to be paid as follows: \$500 is due within 30 days of the Final Decision and Order and the remaining \$9500 is suspended for six months to allow Green Things time to comply with the Floodplain Management Ordinance.
6. Green Things requested that the Board review the Final Decision and Order. The Board set a hearing on the request for December 13, 2021.



7. Prior to the December 13, 2021 hearing, the Board was presented with the information that was presented to the Chief Engineer in issuing the Final Decision and Order, Green Things's written request for review, and the Chief Engineer's final report. At the hearing, representatives of the District and Green Things made arguments to the Board. At the conclusion of the hearing, the Board voted to approve the Final Decision and Order and directed staff for the Flood Control District to prepare findings of fact and conclusions of law for the Board's approval at a hearing scheduled for January 11, 2021.

Therefore, having considered the record and having heard the arguments of the District and Green Things, the Board enters this order and approves the Final Decision and Order of the Chief Engineer dated August 24, 2021 without modification.

ORDERED:

Christopher Langham, P.E, CFM

Date

Chair of the Pima County Regional Flood Control District Board of Hearing Review

Copy mailed on _____ **to:**

Respondent: Lawrence M. Hecker, Hecker & Pew, PLLC, 405 W. Franklin, Tucson, AZ 85701
Jack & Jan Westenborg, 6855 N Los Leones, Tucson AZ 85718

By: