

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

DON LINDSEY, )  
 )  
 Petitioner, )  
 )  
 vs. ) Case No. 97-1411  
 )  
 DEPARTMENT OF HEALTH, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

RECOMMENDED ORDER

Pursuant to notice, a Section 120.57(1) hearing was held in this case on July 18, 1997, by video teleconference, at sites in West Palm Beach and Tallahassee, Florida, before Stuart M. Lerner, a duly designated Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Don Lindsey, pro se  
5600 Poinsettia Avenue, Number 1109  
West Palm Beach, Florida 33402

For Respondent: Victoria A. Coleman, Esquire  
Department of Health  
Post Office Box 29  
West Palm Beach, Florida 33402

STATEMENT OF THE ISSUES

1. Whether Petitioner committed the violations alleged in the citations he received on February 6, 1997.
2. If so, what amount, if any, should he be fined.

PRELIMINARY STATEMENT

On February 6, 1997, Petitioner was issued citations for

violations existing at two migrant farmworker housing facilities that he owned in Pahokee, Florida. Petitioner thereafter requested an administrative hearing on the matter. On March 19, 1997, the case was referred to the Division of Administrative Hearings for the assignment of an Administrative Law Judge to conduct a Section 120.57(1) hearing.

As noted above, the hearing was held on July 18, 1997. A total of three witnesses testified at the hearing: Michael Menor, a Sanitation and Safety Specialist with the Department of Health (Department); Petitioner; and Speedy Martin, an employee of Petitioner's. In addition to the testimony of these three witnesses, a total of 17 exhibits (Respondent's Exhibits 1A, 1B, 2A, 2B, 3A, 3B, 4A, 4B, 5A, 5B, 6A, 6B, 7, 8, 9A, 9B and 10) were offered and received into evidence.

At the conclusion of the evidentiary portion of the hearing, the undersigned announced on the record that proposed recommended orders had to be filed no later than August 1, 1997. On July 31, 1997, Petitioner and the Department timely filed their proposed recommended orders. The undersigned has carefully considered these proposed recommended orders submitted by the parties.

On August 4, 1997, Petitioner filed the following "fax message" addressed to the undersigned:

Pertinent to the facts is this contract with Glades Pest Control. I was conversing with the owner at the beginning of Feb. 1997. He had to go to the property to inspect it and determine a method of dealing with the problem. He sent me his suggestions on

Feb. 17, 1997 and I agreed to have him do it  
a.s.a.p. That date was March 7, 1997.

The "contract with Glades Pest Control" referenced in the message, as well as a February 17, 1997, letter, and a March 7, 1997, invoice, from Glades Pest Control to Petitioner were appended to the message. Neither the information contained in the message nor the documents attached to the message were offered or received into evidence at the final hearing on July 18, 1997. Because they are outside the scope of the evidentiary record in this case, they cannot provide a basis for any finding of fact. See General Development Utilities, Inc. v. Hawkins, 357 So. 2d 408, 409 (Fla. 1978); Section 120.57(1)(h), Florida Statutes ("Findings of fact . . . shall be based exclusively on the evidence of record and on matters officially recognized."). In any event, even if they were considered part of the evidentiary record (upon which findings of fact could be based), the outcome of the instant case would be the same.

#### FINDINGS OF FACT

Based upon the evidence adduced at hearing and the record as a whole, the following Findings of Fact are made:

1. At all times material to the instant case, Petitioner owned and operated two apartment buildings located (adjacent to each other) at 732 and 740 Joe Louis Avenue in Pahokee, Florida (hereinafter referred to as the 732 Apartments and the 740 Apartments, respectively). Each building contained ten apartments used to house migrant farmworkers and members of their

families, including their children.

2. Among Petitioner's tenants was Speedy Martin. Petitioner paid Martin to help him maintain the buildings and grounds.

3. Michael Menor is a Sanitation and Safety Specialist with the Department. He is assigned to the Department's Belle Glade office. In his capacity as a Sanitation and Safety Specialist, he inspects migrant farmworker housing to ascertain whether there is compliance with applicable statutory and rule requirements.

4. Menor conducted inspections of the 732 and 740 Apartments on January 14, 1997. The inspections revealed the existence of violations at both locations.

5. Following his inspections, Menor prepared inspection reports which accurately described the violations that existed at the two locations at the time of the inspections and which gave notice that these violations needed to be corrected by 8:00 a.m. on January 28, 1997. Before leaving, he handed these inspection reports to one of Petitioner's tenants, Marlo Camble. Approximately a week later, Camble provided the reports to Speedy Martin, who, in turn, notified Petitioner of the contents of the reports.

6. The inspection report describing the condition of the 732 Apartments and grounds at the time of the January 14, 1997, inspection contained the following "comments and instructions":

Repair cracks in building, south side.

Replace 11 bathroom screens missing from building.

Broken window [in] Apt. # 5 and two broken windows [in] Apt. 4.

Repair or replace covers for water meters.

Clean out garbage, litter and debris from east side of building.

Replace missing screens [in] Apt[s]. #1 [and] 2.

Provide or repair heat [in] Apt. #2.

Exposed wires [hanging from two] public lighting . . . fixtures [on] west side of building.

Exposed wires in meter room.

Empty out storage area and repair door under stairs.

Repair wall on side of storage area.

Repair public lighting on 2nd floor.

Repair or replace stove [in] Apt. #9.

Repair or replace stove [in] Apt. #2.

Note: Smoke detectors missing [from] Apt. #8.

Fire extinguisher missing [from] Apt. #2.

All fire extinguishers require reinspection and retag.

7. The inspection report describing the condition of the 740 Apartments and grounds at the time of the January 14, 1997, inspection contained the following "comments and instructions":

Replace missing screens in Apt[s]. #4 and #5.

Repair leak on overhang, [in] front of Apt[s]. #4 and #5.

Clean out garbage, litter and debris from east side of building.

Repair heater [in] Apt. #4.

Repair broken windows [in] Apt. #4. (2 windows broken).

Remove or repair screen door [on] Apt. #3.

Repair public lighting.

Repair screen [in] Apt. #1.

Exposed electrical wires [in] front of Apt. #1.

Repair door frame and screen in meter room. Clean room.

Provide cover for electrical wires in meter room.

Repair overhang [on] corner of building's west side.

Remove wooden poles [on] south side of building.

Repair broken window [in] Apt. #3 [on] south side of building.

Repair wall [on] south side of building.

Provide covers for water meters.

Replace 2 missing bathroom screens [on] south side of building.

Repair public lighting [on] 2nd floor.

Replace missing screen [in] Apt. #7.

Repair 2 broken windows [in] Apt. #6.

Exposed wire [on] west side of Apt. #6.

Repair storage door under stairs and clean storage room.

Note: All fire extinguishers require retag and reinspection.

Replace fire extinguisher and smoke detector [in] Apt. #2.

8. Menor returned to the 732 and 740 Apartments on January 31, 1997, to conduct follow-up inspections.<sup>1</sup> The follow-up inspections revealed that, although Petitioner had remedied some of the problems that Menor had discovered during his January 14, 1997, inspections (and had noted in his reports of those inspections), most of the violations found during these earlier inspections had not been corrected.

9. Following his January 31, 1997, inspections, Menor prepared inspection reports which accurately described the violations that existed at the two locations at the time of the inspections and which gave notice that these violations needed to be corrected by 8:00 a.m. on February 4, 1997. Menor, on February 3, 1997, "faxed" Petitioner copies of the inspection reports. He also spoke with Petitioner and advised him of the contents of the reports.

10. The inspection report describing the condition of the 732 Apartments and grounds at the time of the January 31, 1997, inspection contained the following "comments and instructions":

Repair cracks in building, south side.

Replace 11 bathroom screens missing from building.

Broken window [in] Apt. #5 and two broken windows [in] Apt. #4.

Repair or replace covers for water meters.

Clean out garbage, litter and debris [from] east side of building.

Replace missing screens [in] Apt[s]. #1 [and] 2.

Provide or repair heat [in] Apt. #2.

Repair door to storage area under stairs.

Repair or replace stove [in] Apt. #9.

Repair or replace stove [in] Apt. #2.

Provide effective extermination of rodents.

11. The inspection report describing the condition of the 740 Apartments and grounds at the time of the January 31, 1997, inspection contained the following "comments and instructions":

Replace missing screens in Apt[s]. #4 [and] #5.

Repair leak on overhang, [in] front of Apt[s]. #4 [and] #5.

Clean out garbage, litter and debris from east side of b[ui]ld[ing].

Repair 2 heaters [in] Apt. #4.

Repair overhang [on] corner of building['s] west side.

Repair broken window [in] Apt. #3 [on] south side of building.

Repair wall [on] south side of building.

Provide covers for water meters.

Replace 2 missing bathroom screens [on] south side of b[ui]ld[ing].

Repair public lighting [on] south side of b[ui]ld[ing].



Repair broken window (2)[in] Apt. #6.

Repair storage door und[er] stairs.

Provide effective extermination of rodents.

12. Menor next inspected the 732 and 740 Apartments on February 4, 1997. The inspections revealed that none of the violations that Menor had discovered during his January 31, 1997, inspections (and had noted in his reports of those inspections) had been remedied, with the exception of the violation resulting from the broken heater in Apartment number 2 in the 732 Apartments, which had been repaired since the January 31, 1997, inspections. (One of the heaters in Apartment number 9 in the 732 Apartments, however, was now in disrepair.)

13. Although Petitioner had taken steps to address some of these continuing violations, his efforts, as Menor's February 4, 1997, inspections revealed, were inadequate to correct the targeted problems.

14. Petitioner had ordered meter covers from the City of Pahokee, but he had not yet received them nor had he placed any temporary coverings over the uncovered meters.

15. He had attempted to repair the cracks in the building on the south side of the 732 Apartments; the door to the storage area under the stairs in the 732 Apartments; the overhang in front of Apartment numbers 4 and 5 in the 740 Apartments; the overhang on the west side of the 740 Apartments; the wall on the south side of the 740 Apartments; and the door to the storage

area under the stairs in the 740 Apartments; but the repairs he had made had not been done properly.

16. He had put rat poison under the buildings and given tenants rat traps in an effort to alleviate the rodent infestation problem at the 732 and 740 Apartments; however, he had not gone to the expense of hiring a professional exterminator to deal with the problem, even though it should have been apparent to him that the services of an exterminator were needed to effectively eliminate the rat population at the two locations.

17. Following the February 4, 1997, inspections, Menor prepared inspection reports which accurately described the violations that existed at the 732 and 740 Apartments at the time of the inspections and which gave notice that these violations needed to be corrected by 8:00 a.m. on February 6, 1997. Menor spoke with Petitioner and advised Petitioner of the contents of the inspection reports and what Petitioner needed to do to remedy the violations noted in the reports.

18. Menor returned to inspect the 732 and 740 Apartments on February 6, 1997. Upon his arrival, Menor met Petitioner, who had also just arrived on the scene. In Petitioner's car were screens and light bulbs that Petitioner intended to install in the apartments and public areas that needed them. Notwithstanding Petitioner's intentions, none of the violations that Menor had discovered during his February 4, 1997, inspections (and had noted in his reports of those inspections)

had yet been remedied. Inasmuch as the deadline that Menor had given Petitioner to correct these violations had passed, Menor issued Petitioner two citations, one for the continuing violations at the 732 Apartments and the other for the continuing violations at the 740 Apartments. Each citation directed Petitioner "to pay a fine in the amount of \$500.00," but provided that Petitioner could "have the amount of the fine . . . reduced or waived completely by demonstrating good faith in correcting the violations or by presenting 'before and after' evidence to the Palm Beach County Public Health Unit within 48 hours of the time of the issuance of th[e] citation." Menor told Petitioner that he would be back to the apartments on Monday, February 10, 1997, to see if the violations had been corrected and if a reduction or waiver of the fines was warranted.

19. On February 10, 1997, Petitioner telephoned Menor and advised him that he needed an extra day to bring the 732 and 740 Apartments into compliance. Menor responded by telling Petitioner that he would postpone his inspections of the apartments until the following day.

20. The following day, February 11, 1997, Menor paid a return visit to the 732 and 740 Apartments to conduct post-citation inspections. Some of the continuing violations that Menor had discovered during his February 4, 1997, inspections (and had noted in his reports of those inspections) had still not yet been remedied. These unremedied violations created

conditions that posed a serious threat to the health and safety of the tenants.

21. Following his February 11, 1997, inspections, Menor prepared inspection reports which accurately described the violations that existed at the two locations at the time of the inspections and which gave notice that these violations needed to be corrected by 8:00 a.m. on February 17, 1997. Menor provided Petitioner, who was present during the inspections, copies of the inspection reports.

22. The inspection report describing the condition of the 732 Apartments and grounds at the time of the February 11, 1997, inspection contained the following "comments and instructions":

- Replace covers for water meters. . . .
- Repair door to storage area.
- Provide effective extermination of rodents.
- Repair cracks in building, south side.
- Screens missing from bathroom window[s].

23. The inspection report describing the condition of the 740 Apartments and grounds at the time of the February 11, 1997, inspection contained the following "comments and instructions":

- Repair overhang [on] corner of building['s] west side./Repair storage door.
- Provide covers for water meters.
- Repair 2 broken windows [in] Apt. #6.
- Provide effective extermination of rodents.

24. Menor next inspected the 732 and 740 Apartments on

February 17, 1997. The inspections revealed that at neither location had Petitioner yet "provide[d] covers for water meters" or "provide[d] effective extermination of rodents," although he had corrected the other violations Menor had discovered during his February 11, 1997, inspections (and had noted in his reports of those inspections).

25. Following his February 17, 1997, inspections, Menor prepared inspection reports which accurately described the violations that existed at the two locations at the time of the inspections. Copies of these inspection reports were "faxed" to Petitioner on February 18, 1997.

26. On February 24, 1997, Menor received a complaint from a tenant living in Apartment number 4 in the 740 Apartments that there were "rats in [her] refrigerator." Later that day, Menor went to the 740 Apartments to investigate the complaint. His investigation revealed evidence that rats had entered the complainant's refrigerator through a hole. Menor spoke with Petitioner following his investigation and emphasized the importance of Petitioner providing his tenants with effective "pest control."

27. Two days later, on February 26, 1997, Petitioner telephoned Menor and told Menor that he (Petitioner) had made arrangements for a "pest control" company, Glades Pest Control, to provide extermination services at the 732 and 740 Apartments, but that it would not be until March 4, 1997, that such services

would be rendered.

28. On April 18, 1997, Menor returned to the 732 and 740 Apartments to ascertain whether the continuing violations that he had discovered during his February 17, 1997, inspections (and had noted in his reports of those inspections) had been remedied. The inspections revealed that these violations had been corrected.

#### CONCLUSIONS OF LAW

29. The Department has been statutorily delegated the authority to "adopt rules necessary to protect the health and safety of migrant farm workers and other migrant labor camp or residential migrant housing occupants. These rules must include provisions relating to plan review of the construction of new, expanded, or remodeled camps, personal hygiene facilities, lighting, sewage disposal, safety, minimum living space per occupant, bedding, food storage and preparation, insect and rodent control, garbage, heating equipment, water supply, maintenance and operation of the camp or housing, and such other matters as the [D]epartment finds to be appropriate or necessary to protect the life and health of the occupants." Section 381.0086, Florida Statutes.

30. The Department has adopted such rules. They are found in Chapter 64E-14 (formerly 10D-25), Florida Administrative Code.

31. Rule 64E-14.007 (formerly 10D-25.058), Florida

Administrative Code, imposes requirements relating to "[b]uildings and structures of migrant labor camps and residential migrant housing."<sup>2</sup> It provides, in pertinent part, as follows:

(1) Buildings and structures of migrant labor camps and residential migrant housing shall be weather-tight and shall provide protection from the elements. Steps, porches, hallways and other means of egress shall be sturdy and safe. . . .

(4) The floors, roofs, and exterior walls, and ceilings of all buildings and structures shall be sound and in good repair. . . .

32. Rule 64E-14.009 (formerly 10D-25.060), Florida

Administrative Code, imposes requirements relating to "[g]arbage and [r]efuse [d]isposal." It provides as follows:

(1) Garbage shall be retained in cleanable, watertight receptacles of impervious material which are provided with tight fitting covers suitable to protect the contents from flies, insects, rodents and other animals. Receptacles shall be provided in sufficient quantity to store garbage from all buildings and housing units.

(2) Garbage containers shall be kept clean and shall be emptied on a regular basis, but not less than twice weekly.

(3) Provisions shall be made for disposing of the garbage, kitchen wastes and other refuse in accordance with Chapter 62-700, F.A.C., or applicable local code.

33. Rule 64E-14.010 (formerly 10D-25.061), Florida

Administrative Code, imposes requirements relating to "[i]nsect and [r]odent [c]ontrol." It provides that "[e]ffective measures

shall be taken to prevent infestation by and harborage of animal or insect vectors or pests."

34. Rule 64E-14.011 (formerly 10D-25.062), Florida Administrative Code, imposes requirements relating to "[h]eating." It provides as follows:

(1) All private living quarters, and bathrooms of migrant labor camps and residential migrant housing shall be equipped with heat producing devices to maintain a room temperature of 68 degrees Fahrenheit.

(2) Heating appliances, other than electrical, shall be provided with a flue pipe or vent connected to the appliance and discharging to the outside air. Cooking facilities shall not be considered heating equipment.

(3) Automatically operated heat producing equipment shall be provided with controls to cut off the fuel supply upon the failure or interruption of flame or ignition or whenever a predetermined safe temperature or pressure is exceeded. All steam and hot water systems shall be provided with safety devices designed to prevent hazardous pressures and excessive temperatures.

35. Rule 64E-14.012 (formerly 10D-25.063), Florida Administrative Code, imposes requirements relating to "[l]ighting." It provides as follows:

Each private living quarter in a migrant labor camp or residential migrant housing shall be provided with at least one ceiling or wall type light fixture capable of providing 30 foot candles of light at a point 30 inches from the floor and at least one separate double electric wall outlet. Interior areas in which people congregate, laundry rooms, shower rooms and toilet rooms shall be provided with a minimum of one ceiling or wall type fixture capable of



providing at least 20 foot candles of light at a point 30 inches from the floor. Electric wiring shall be installed in accordance with the provisions of city or county electrical codes. Light bulbs shall be furnished in all facilities.

36. Rule 64E-14.017 (formerly 10D-25.068), Florida Administrative Code, imposes requirements relating to "[flood [s]ervice [f]acilities." It provides, in pertinent part, that "[i]n each individual family unit, there shall be provided a range . . . ."

37. Rule 64E-14.019 (formerly 10D-25.070), Florida Administrative Code, imposes requirements relating to "[f]ire [p]rotection." It provides, in pertinent part, that "[o]perating smoke detection devices and fire extinguishers shall be installed in all facilities."

38. Rule 64E-14.021 (formerly 10D-25.072), Florida Administrative Code, addresses the subject of "[r]esponsibility of [o]perator." It provides, in pertinent part, that "[t]he operator and owner shall be responsible for complying with all statutory requirements and rules issued thereunder relating to migrant labor camps and residential migrant housing," that "[t]he entire premises of a migrant labor camp and residential migrant housing shall be free from rubbish, waste paper, garbage and other litter," and that "[t]he owner, operator or his agent shall inspect daily or provide a competent individual to inspect daily the grounds and common-use areas including toilets, showers, laundries, mess halls, dormitories, kitchens or any facilities

relating to the operation of the facility and ensure that each is maintained in a clean, satisfactory operating condition and kept in good repair."

39. Department personnel may issue an owner/operator of residential migrant housing (as was Petitioner at all times material to the instant case) a citation containing an order to pay a fine for violating any provision of the rules adopted by the Department pursuant to Section 381.0086, Florida Statutes. Sections 381.0086(4) and 381.0087(1), Florida Statutes.

40. "The fines imposed by a citation issued by the [D]epartment may not exceed \$500 for each violation." Sections 381.0086(4) and 381.0087(3), Florida Statutes; Rule 64E-14.021(5) (formerly 10D-25.072(5)), Florida Administrative Code. "Each day the violation exists constitutes a separate violation for which a citation may be issued." Sections 381.0086(4) and 381.0087(3), Florida Statutes; Rule 64E-14.020(1) (formerly 10D-25.071(1)), Florida Administrative Code.

41. "A citation issued [by the Department] constitutes a notice of proposed agency action." Sections 381.0086(4) and 381.0087(1), Florida Statutes.

42. The recipient of a citation has "the right to an administrative hearing to contest the citation." Sections 381.0086(4) and 381.0087(4), Florida Statutes; Rule 64E-14.020(5) (formerly 10D-25.071(5)), Florida Administrative Code.

43. At the administrative hearing, the Department bears the

burden of establishing the recipient's guilt of the violation(s) alleged in the citation. Proof greater than a mere preponderance of the evidence must be presented. Clear and convincing evidence is required. See Department of Banking and Finance, Division of Securities and Investor Protection v. Osborne Stern and Company, 670 So. 2d 932, 935 (Fla. 1996)("[A]n administrative fine deprives the person fined of substantial rights in property. Administrative fines . . . are generally punitive in nature. . . . Because the imposition of administrative fines . . . are penal in nature and implicate significant property rights, the extension of the clear and convincing evidence standard to justify the imposition of such a fine is warranted."); Section 120.57(1)(h), Florida Statutes ("Findings of fact shall be based on a preponderance of the evidence, except in penal or licensure disciplinary proceedings or except as otherwise provided by statute."). "'[C]lear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.'" In re Davey, 645 So. 2d 398, 404 (Fla. 1994), quoting, with approval, from Slomowitz v. Walker, 429 So. 2d 797,

800 (Fla. 4th DCA 1983).

44. Even if there is clear and convincing evidence of the recipient's guilt presented at the administrative hearing, the Department may nonetheless waive or reduce the fine imposed by the citation. "In determining whether to reduce or waive the fine, the [D]epartment must give due consideration to such factors as the gravity of the violation, the good faith of the person who has allegedly committed the violation, and the person's history of previous violations, including violations for which enforcement actions were taken." Sections 381.0086(4) and 381.0087(5), Florida Statutes; Rule 64E-14.021(5) (formerly 10D-25.072(5)), Florida Administrative Code. Rule 64E-14.021(5), Florida Administrative Code, further provides that "[t]he [D]epartment may reduce or waive the fine imposed by the citation where the person responsible for correction present[ed] proof to the [D]epartment's county public health unit director, administrator or other authorized staff that the violation [had been] corrected within 48 hours from the time of the citation."

45. In the instant case, Petitioner, on February 6, 1997, was issued two citations by the Department for violations that allegedly existed on that date at the 732 and 740 Apartments, two residential migrant housing facilities that he owned and operated at the time. Each citation proposed to impose on Petitioner a fine of \$500.00, which was considerably less than the maximum amount allowed for the number of alleged violations cited.

Petitioner requested and received an administrative hearing to contest the citations.

46. At the administrative hearing, clear and convincing evidence was presented establishing that Petitioner committed the violations alleged in the two citations.

47. Although these violations were ultimately corrected, given the number of violations, their serious nature when viewed collectively, and the length of time it took Respondent to correct them, the \$500.00 fines proposed by the Department are appropriate and should be neither waived nor reduced.<sup>3</sup>

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Department issue a final order finding Respondent guilty of the violations alleged in the February 6, 1997, citations and fining him a total of \$1,000.00 (\$500.00 per citation) for these violations.

DONE AND ENTERED this 13th day of August, 1997, in Tallahassee, Leon County, Florida.

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STUART M. LERNER  
Administrative Law Judge  
Division of Administrative Hearings  
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1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(904) 488-9675 SUNCOM 278-9675  
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Filed with the Clerk of the

Division of Administrative Hearings  
this 13th day of August, 1997.

ENDNOTES

<sup>1</sup> On January 27, 1997, Petitioner telephoned Menor and asked for an extension of time, until January 31, 1997, to correct the violations Menor had referenced in the reports describing the results of his January 14, 1997, inspections. Menor granted Petitioner's request.

<sup>2</sup> "Residential migrant housing," as used in Rule Chapter 64E-14, Florida Administrative Code, is "[a] building, structure, mobile home, barracks, or dormitory, or combination thereof on adjacent property which is under the same ownership, management or control, and the land appertaining thereto, that is rented or reserved for occupancy by five or more migrant farmworkers." Rule 64E-14.002(13), Florida Administrative Code.

<sup>3</sup> The Department has not given notice of its intent to, and therefore may not, impose fines greater than \$500.00 per citation for these violations. See Williams v. Turlington, 498 So. 2d 468 (Fla. 3d DCA 1986) ("Since Williams was not given notice by either the complaint or any later proceedings that he was at risk of having his license permanently revoked, the Commission's imposition of the non-prayed for relief of permanent revocation, even if justified by the evidence, was error.").

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the final order in this case.