

CAUSE NO. 2018-56157

HARRIS COUNTY, TEXAS,
Plaintiff,

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IN THE DISTRICT COURT OF

and the

**STATE OF TEXAS, acting by and
through the Texas Commission on
Environmental Quality, a Necessary
and Indispensable Party**

HARRIS COUNTY, TEXAS

v.

ALOYSIUS IKWUEZUNMA,
Defendant.

295th JUDICIAL DISTRICT

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TINX
TRIX

AGREED TEMPORARY INJUNCTION

On this day, Harris County, Texas (Harris County) and Aloysius Ikwuezunma (Defendant), collectively referred to as the "Parties," presented this Agreed Temporary Injunction ("TI") to the Court. By the duly authorized signatures below, the Parties stipulate to the Court the following:

1. They understand the terms of the TI;
2. They agree to the terms of this TI;
3. Defendant admits no liability by signing this TI or by complying with its terms;
4. Issuance and service of a writ of injunction as a prerequisite for the enforcement of this TI are waived; and
5. No Party agrees to this TI as a result of duress, and all Parties waive any claims of duress that might be made.

Upon these stipulations and upon review of the TI, the Court finds that an injunction should be granted and Defendant must immediately do all things necessary to prevent any future improper storage, dumping, disposal, or discharge or Municipal Solid Waste and the operation of

any salvage yard without a license and any violations of the Texas Water Code, Texas Health and Safety Code, or the Ordinance of Harris County, Texas Regarding Licensing of Junkyards and Automotive Wrecking and Salvage Yards at or about 5607 Charrin Drive, Houston Texas 77032.

IT IS THEREFORE **ORDERED, ADJUDGED, AND DECREED** THAT HARRIS COUNTY'S APPLICATION FOR TEMPORARY INJUNCTION IS GRANTED AND APPROVED, AND THE DEFENDANT AND HIS AGENTS, ASSIGNS, SERVANTS, AND EMPLOYEES ARE HEREBY IMMEDIATELY, MANDATORILY, AND TEMPORARILY ENJOINED AS FOLLOWS:

1. DEFINITIONS

1.1. As used throughout the injunction, the following words and terms set forth below have the following meanings:

- a. "Automotive Wrecking and Salvage Yard" shall mean an outdoor place where a person stores three or more vehicles for the purpose of dismantling or wrecking the vehicles to remove parts for sale or for use in an automotive repair or rebuilding.
- b. "Day" shall mean calendar day.
- c. "Defendant" shall mean Aloysius Ikwuezunma.
- d. "Development" shall mean any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials. Fences or fence-type walls located within the flood plain are included within this definition.

- e. "Effective Date" shall mean the date this Court signs the injunction or the date the Defendant is served with the injunction, whichever is later.
- f. "Flood Plain Regulations" shall mean the Regulations of Harris County, Texas for Flood Plain Management.
- g. "Harris County" shall mean Harris County, Texas, a political subdivision of the State of Texas.
- h. "HCFD" shall mean Harris County Engineering Department.
- i. "Immediately" shall mean by 5:00 p.m. Central Standard Time on the next Day after the Effective Date.
- n. "Municipal solid waste" ("MSW") shall mean solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, and includes garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and other solid waste other than industrial solid waste. Tex. Health & Safety Code 361.003(20).
- o. "Operations" shall mean any business or recreational activity conducted on the Property. This excludes any work done in accordance with bringing the Property into compliance with the Harris County Flood Plain Regulations as part of this lawsuit.
- p. "Parties" shall mean Harris County and the Defendant collectively.
- q. "Permits" shall mean a permit as required by Flood Plain Regulations.
- r. "Right-of-Way" shall mean the area covered by a Harris County road or drainage feature, or a Harris County Flood Control District drainage or flood control feature, regardless of whether it is dedicated to the public or is owned by Harris

County or the Harris County Flood Control District in fee or by easement, including but not limited to Alnay Lane, road log number 2W01301.

- s. "Salvage Yard Ordinance" shall mean Ordinance of Harris County, Texas Regarding Licensing of Junkyards and Automotive Wrecking and Salvage Yards.
- t. "Site" shall mean the property located at 5607 Charrin Drive, Houston, Harris County, Texas 77032.
- u. "Status Report" shall mean a report sent by Email or regular U.S. mail describing the progress toward completion of the injunctive provisions at the Property.
- v. "Wrecked Vehicle" shall mean a discarded, junked, damaged, or worn-out automotive vehicle that is not in a condition to be lawfully operated on a public road.

2. TEMPORARY INJUNCTION

2.1. Immediately, Defendant shall cease placing vehicles, Wrecked Vehicles, vehicle parts, used oil filters, scrap tires and any other municipal solid waste in the Right-of-Way.

2.2. Immediately, Defendant shall cease dismantling, cutting break lines, cutting fluid lines, or removing any parts from the vehicles and Wrecked Vehicles located in the Right-of-Way.

2.3. Immediately, the Defendant shall cease operating a junkyard or Automotive Wrecking and Salvage Yard at the Site and shall not take any Wrecked Vehicles, vehicle parts, vehicle components, or any material or liquid removed from any vehicle on, in, or at the Site, unless the Defendant obtains a Salvage Yard License for the Site in accordance with the Texas Transportation Code and the Salvage Yard Ordinance.

2.4. Immediately, the Defendant shall begin using best management practices (“BMPs”) at the Site as follows:

- a. Storing used oil filters in a closed drum or secondary containment system;
- b. Storing drained fluids in a closed drum, tote, or secondary containment system;
- c. Storing batteries off of the ground and under cover;
- d. Placing drip pans beneath vehicles and emptied them into the closed drum, tote, or secondary containment system when full; and
- e. Storing oily vehicle parts off of the ground and under cover.

2.5. Immediately, Defendant shall place oil absorbent booms in three locations in the roadside ditch along the east side of Alnay Lane. Specifically, Defendant shall place one boom on either side of the culvert running beneath the entrance to the Site, and one boom in the ditch approximately 10 to 15 feet north of the intersection of Alnay Lane and Charrin Drive. These booms shall be replaced every 30 days. Defendant shall maintain records and receipts detailing how and where the used booms were disposed of, to be available for inspection upon request.

2.6. Immediately, and until a Class I Permit is issued for the Property, Defendant shall cease all Operations on the Property until all Development located on the Property are compliant with Harris County Regulations, have obtained the required Permits, and passed the required inspections.

2.7. No later than seven Days after the Effective Date of the injunction, the Defendant shall remove for disposal or lawful disposition any Wrecked Vehicles, vehicle parts, vehicle components, containers, or any material or liquid removed from any vehicle, any MSW including refrigerators, or any other waste located on the Right-of-Way and shall maintain

records and receipts detailing how and where the Wrecked Vehicles, vehicle parts, vehicle components, containers or any other material removed from the Right-of-way was disposed of.

2.8. No later than 14 Days after the Effective Date of the injunction, the Defendant shall clean and remediate all spilled oil, car fluids, or any other discharge from the Right-of-Way and shall maintain records and receipts detailing how and where the material was disposed of, to be available for inspection upon request.

2.9. No later than 14 Days after the Effective Date of the injunction and every 14 Days thereafter, Defendant shall prepare and submit to HCFD, a written Status Report for each requirement of the injunctive provisions of the injunction. The Status Report shall describe: (1) the work performed in the two-week period immediately past; (2) the work expected to be performed in the current two-week period, along with a schedule for such work; and (3) the expected dates of completion of each task required in the injunctive provisions. If no work had been performed at the Site, the Status Report shall state that no work has been performed and provide an explanation as to why no progress was made towards complying with the injunctive provisions.

2.10. For any document required or permitted to be submitted to HCFD under the injunctive provisions, Defendant shall submit the document to:

Rebekah Wendt
Assistant County Attorney
Environmental Practice Group
1019 Congress, 15th Floor
Houston, Texas 77002
E-mail: Rebekah.Wendt@cao.hctx.net

3. BOND

3.1. **IT IS FURTHER ORDERED** that pursuant to the Tex. Civ. Prac. & Rem. Code § 6.001, Harris County is not required to pay a filing fee or other security for costs and is not required to pay a bond prior to the Court granting an injunction.

4. TRIAL SETTING

4.1 **IT IS FURTHER ORDERED** that this TI shall remain in effect until the earlier of (i) a hearing is conducted to revisit the necessity of the temporary injunction (a party must provide notice of the hearing to the opposing party at least fourteen days in advance of a hearing), (ii) settlement of this matter with Harris County and the State of Texas, or (iii) trial on the merits at 9:30 a.m. on the 21st day of January, 2019.

SIGNED this 25th day of October, 2018.

Caroline Baker
JUDGE PRESIDING

AGREED AS TO FORM AND SUBSTANCE:

VINCE RYAN, # 99999939

Harris County Attorney.

Rebekah Wendt

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**ATTORNEYS FOR PLAINTIFF
HARRIS COUNTY, TEXAS**

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**ATTORNEY FOR DEFENDANT
ALOYSIUS IKWUEZUNMA**



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this October 26, 2018

Certified Document Number: 82318631 Total Pages: 9

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com