

November 5, 2019

VIA OVERNIGHT DELIVERY

The Honorable Bill Barnett, Mayor
Mr. Charles Chapman, City Manager
Mr. Jim Fox, City Attorney
City of Naples
735 8th Street South
Naples, Florida 34102

Dear Mayor Barnett, Mr. Chapman, and Mr. Fox:

The Environmental Research & Education Foundation, Inc. (“EREF”), has retained this firm to file suit against the City of Naples to challenge the City’s adoption of Ordinance 2019-14362 relating to fertilizer use and urban landscapes. Section 57.112 of Florida Statutes requires that we provide the City notice of our intent to seek attorney fees and costs in that proceeding. This correspondence provides that notice.

Members of EREF include urban lawn care professionals, golf course superintendents, lawn care service providers, sports turf managers, and other green industry professionals who share the common goal of protecting water quality in the City of Naples. EREF members believe science-based fertilizer ordinances serve as an important component of comprehensive water quality strategy. Unfortunately, portions of the City’s ordinance are not supported by peer-reviewed science or by the Florida Department of Environmental Protection, the Florida Department of Agriculture & Consumer Services, or the University of Florida Institute of Food & Agricultural Sciences. The City’s ordinance risks turf health, which leads to less efficient filtration of potential pollutants and greater runoff and will seriously undermine the protection of water quality.

Moreover, the City’s ordinance, particularly as codified at subsection 52-184(a) of City Code, is contrary to state law because the Legislature has expressly preempted the City’s power to regulate nutrient content and application of fertilizer at sections 576.181 and 403.9337, Florida Statutes. State law does not allow a local government to deviate from the State’s scientifically-derived model ordinance unless the local ordinance is part of a comprehensive, science-based and economically feasible program to address nutrient impairment of a local water body. Unfortunately, the City appears to have been misled on this matter because the State does not list Naples Bay or the Gulf of Mexico as impaired by nutrients as reported to the City Council in the ordinance’s supporting documentation.

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State law restrains local government regulation of fertilizer because the green industry is integral to Florida's identity and misguided ordinances can do more harm than good. Section 57.112(3), Florida Statutes, prescribes action the City must take to avoid its exposure to attorney fees and costs. Please govern yourselves accordingly.

Sincerely,

MANSON BOLVES DONALDSON VARN, P.A.



Brian Accardo

BJA/dlr