

CAUSE NO. _____

HARRIS COUNTY, TEXAS
Plaintiff,

v.

YELLOW JACKET READYMIX, LLC
and 2210 HARTWICK, LLC
Defendants.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

_____ **JUDICIAL DISTRICT**

HARRIS COUNTY'S ORIGINAL PETITION AND
APPLICATION FOR TEMPORARY AND PERMANENT INJUNCTION

Plaintiff, Harris County, Texas (Harris County), files this Original Petition and Application for Temporary and Permanent Injunction in this enforcement action complaining that Defendant, 2210 Hartwick, LLC, owns real property located at 2219 Hartwick Rd. Houston, Texas 77093 (the Property) and Defendant, Yellow Jacket ReadyMix, LLC, occupies the Property on which there is unpermitted Development that has not passed the required inspections in violation of the Regulations of Harris County, Texas for Floodplain Management (Floodplain Regulations) and the Harris County Fire Code (Fire Code), and the Development is occupied by Yellow Jacket ReadyMix, LLC prior to receiving the required Fire Code approval. Harris County seeks injunctive relief, civil penalties, and court costs.

1. DISCOVERY CONTROL PLAN

1.1. Harris County intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3 and affirmatively pleads that this suit is not governed by the expedited process in Texas Rule of Civil Procedure 169 because Harris County seeks injunctive relief.

2. CLAIMS FOR RELIEF

2.1. Harris County seeks monetary relief over \$250,000 but not more than \$1,000,000 and nonmonetary relief. Tex. R. Civ. P. 47(c)(3).

3. AUTHORITY TO SUE

3.1. Harris County, Texas brings this cause of action for injunctive relief and civil penalties pursuant to the authority granted under Texas Local Government Code §§ 233.066, 233.067, 240.901 and the Texas Water Code § 16.311 et. seq.

4. PLAINTIFF

4.1. Harris County, Texas is a political subdivision of the State of Texas.

5. DEFENDANTS

5.1. Defendant 2210 Hartwick, LLC is the record property owner of the real property at issue in this case. It may be served through its registered agent, Thawda Aung, at 2412 Arlington St., Houston, Texas 77008, or wherever he may be found.

5.2. Defendant Yellow Jacket ReadyMix, LLC is the operator of a concrete batch plant on the Property. It may be served through its registered agent, Thawda Aung, at 2412 Arlington St., Houston, Texas 77008, or wherever he may be found.

6. JURISDICTION AND VENUE

6.1. This Court has jurisdiction over this case because the amount in controversy exceeds \$500.00. Tex. Gov. Code § 24.007. Venue is proper in Harris County because Harris County is the county in which the real property at issue is located and all of the events or omissions giving rise to these claims occurred in Harris County. Tex. Civ. Prac. & Rem. Code §§ 15.002(a)(1).

7. APPLICABLE LAW

Harris County Fire Code

Purpose

7.1. “The purpose of the Fire Code is to establish the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide a reasonable level of safety to fire fighters and emergency responders during emergency operations.”¹ Fire Code § 101.3.

Permit Required

7.2. “No building or structure subject to this code shall be occupied prior to: 1) receipt by the County Fire Code Official of a request for final inspection from the permit Holder as submitted on a form provided by the County Engineer; and 2) issuance of a Certificate of Compliance by the County Engineer that indicates that applicable provisions of this code have been met.” *Id.* at § 101.1.1

7.3. “A property owner or owner’s authorized agent who intends to conduct an operation or business, or conduct, substantially improve, enlarge, alter, repair, move, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the County Engineer and obtain the required permit.” *Id.* at § 105.1.1

7.4. “The Fire Code Official is authorized to issue operational permits for the operations set forth in Sections 105.6.1 through 105.6.50 [of the Harris County Fire Code]. Each operation set forth requires a separate operational permit.” *Id.* at § 105.6.

Enforcement

¹ The Fire Code was adopted pursuant to the Loc. Gov’t Code § 233.061, which permits counties with a population greater than 250,000 to adopt a fire code and the rules necessary to administer and enforce it.

7.5. If any person violates any provisions of the Fire Code, the County Building Official may notify the County Attorney and request that the County Attorney take whatever action is necessary to remedy the violation, including but not limited to filing suit to enjoin the violation and/or seek a civil penalty under Texas Local Government Code § 233.067 of up to \$200 for each day a violation exists.

Floodplain Regulations

Purpose

7.6. The Floodplain Regulations were adopted to “provide land use controls necessary to qualify the unincorporated areas of Harris County for flood insurance” under the National Flood Insurance Act of 1968 and to protect human life and health.² Floodplain Regulations § 1.03.

Unpermitted Development Prohibited

7.7. “All development³ within the unincorporated areas of Harris County without first securing a permit is prohibited.” *Id.* at § 4.01.

As-Built Certificate

7.8. Permit holders for development are required to submit an as-built certification form supplied by the County Engineer. An “As-Built Certificate” is a certification, signed and sealed by a registered engineer or registered architect. An As-Built Certificate for structural development certifies that the structure meets the “minimum requirements of these [Floodplain] Regulations.” An As-Built Certificate for non-structural development certifies that the project has “been completed in accordance with Plans approved by the County Engineer.” *Id.* at § 6.02.

² The Floodplain Regulations were adopted pursuant to the Tex. Loc. Gov’t Code § 240.901; Tex. Transp. Code §§ 251.001-251.059 and 254.001-254.019; and Flood Control and Insurance Act, found in Subchapter I of Chapter 16 of the Tex. Water Code.

³ “Development” means “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.” Development includes “fences or fence-type walls located within the floodplain.” *Id.* at § 2.14

Certificate of Compliance

7.9. After an As-Built Certificate is submitted, the Office of the County Engineer (OCE) will conduct a final inspection of the Development. If OCE determines that all permit provisions have been met, the Department will issue a Certificate of Compliance. *Id.* § at 6.02(e). A Certificate of Compliance certifies that a site is in compliance with the Floodplain Regulations as of a specific date. *Id.* at § 2.07.

Enforcement

7.10. Harris County may file suit, seeking an injunction to “restrain the person from continuing the violation or threat of violation, including an order directing the person to remove illegal improvements and restore preexisting conditions.” Tex. Water Code § 16.323(a)(1); *see generally*, Floodplain Regulations § 8.01.

7.11. A person who violates the Floodplain Regulations is subject to a civil penalty of “not more than \$100 for each act of violation and for each day of violation.” Tex. Water Code § 16.322.

7.12. 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. Tex. Civ. Prac. & Rem. Code § 6.001.

8. BACKGROUND AND INVESTIGATION

Site Description and Background

8.1. This suit concerns real property located at 2219 Hartwick Rd., Houston, Texas 77093 (Property) which Defendant 2210 Hartwick, LLC acquired on September 8, 2022, and Defendant Yellow Jacket ReadyMix, LLC has occupied since at least December 7, 2022. The Property is further described in the deed to 2210 Hartwick, LLC attached hereto as **Exhibit A**.

8.2. The Property is located within an unincorporated area of Harris County.

8.3. As part of the permitting process for any development in the unincorporated areas of Harris County, a property owner submits plans to Harris County for approval prior to beginning any development. Those plans go through a series of reviews, and once Harris County approves the plans and the development built, the completed development must pass final inspection(s).

8.4. Defendant Yellow Jacket ReadyMix, LLC has a concrete batch plant and other commercial operation located at the Property but failed to obtain the required Floodplain and Fire Code permits, pass the required final inspections and obtain a Certificate of Compliance prior to occupying the facility and structures.

Harris County Engineering Investigation(s) and Violation Notices

8.5. The Office of the County Engineer (OCE) (formerly called the Harris County Engineering Department) conducted inspections of the property on September 8, 2021, and on November 17, 2023.

8.6. The concrete batch plant operated by Yellow Jacket ReadyMix, LLC is located on the western side of 2219 Hartwick on Lot 11 of Lindale Farms, and there is a commercial operation located on the eastern side of 2219 Hartwick on Lot 12 and Tract 13A of Lindale Farms. OCE conducted separate inspections of these parcels and issued separate violation notices.

8.7. On September 8, 2021, an inspector with OCE inspected Lot 11 of the Property and found the following unpermitted development in violation of the Floodplain Regulations:

- Driveway Resurfacing with Existing Culvert
- Detention Pond
- Approx. 87,000 sq.ft. of Paving Out of the Right-of-Way
- Three Unenclosed Accessory Buildings (each a separate violation)

- Four Enclosed Accessory Buildings (each a separate violation)
- One Enclosed Building with a Carport

8.8. A Notice of Violation was prepared at the end of the inspection and hand delivered to concrete batch plant employee, George Mapula. A formal Notice of Violation was mailed to the owner of the Property on September 9, 2021.

8.9. Also on September 8, 2021, the same inspector from OCE inspected Lots 12 and 13A of the Property and found the following unpermitted development in violation of the Floodplain Regulations:

- Resurfacing of Driveway
- Eight Shipping Containers Used as Storage (each a separate violation)
- Sign on Commercial Property
- Commercial Paving Out of Right-of-Way
- Approx. 606 Cubic Yards of Fill Material Throughout Site
- Addition to Existing Building

8.10. A Notice of Violation was prepared at the end of the inspection and hand delivered to concrete batch plant employee, George Mapula. (see **Exhibit B** Notices of Violation of Floodplain Regulations) A formal Notice of Violation was mailed to the owner of the Property on September 9, 2021.

8.11. In early February 2023, OCE learned that the ownership of the property and concrete batch plant had changed to 2210 Hartwick, LLC and Yellow Jacket ReadyMix, LLC respectively.

8.12. On February 17, 2023, the Harris County Attorney's Office hand delivered a demand letter with the Notices of Violation of the Floodplain Regulations and Fire Code attached

(Exhibit C) to Thawda Aung, Registered Agent for both 2210 Hartwick, LLC and Yellow Jacket ReadyMix, LLC.

8.13. On May 16, 2023, a meeting was held at the request of OCE to discuss the violations and explain to Defendants what steps would be necessary to bring the Property into compliance with the Floodplain and Fire Code regulations. The meeting was attended by representatives of the Defendants and their engineer, representatives from OCE Permitting and Enforcement and the Harris County Attorney's Office. The parties held nine such meetings approximately every 30 days, but after the last meeting on December 1, 2023, it was clear that Defendants were not making progress toward bringing the Property into compliance and the compliance meetings were ended.

8.14. On November 17, 2023, an inspector with OCE conducted a follow up inspection of Lot 11, Lot 12 and Tract 13A and found that the following Floodplain violations had been removed:

- Eight Shipping Containers Used as Storage
- Unpermitted Sign on Commercial Property

The following Floodplain violations still remain on the Property:

- Unpermitted Driveway Resurfacing with Existing Culvert
- Unpermitted Detention Pond
- Unpermitted Paving Out of the Right-of-Way
- Three unpermitted Unenclosed Accessory Buildings (each a separate violation)
- Four unpermitted Enclosed Accessory Buildings (each a separate violation)
- One unpermitted Enclosed Building with a Carport
- Unpermitted Resurfacing of Driveway
- Unpermitted Commercial Paving Out of Right-of-Way

- Approx. 606 Cubic Yards of Unpermitted Fill Material Throughout Site
- Unpermitted Addition to Existing Building

Harris County Fire Marshal Investigation(s) and Violation Notices

8.15. The Harris County Fire Marshal's Office (FMO or HCFMO) conducted multiple investigations of the Property beginning at least as far back as October 21, 2021. Due to the existence of multiple structures on the Property, and to provide clarity regarding which violations were found at each structure, FMO reported the Fire Code violations for each structure separately. Therefore, there are separate violation reports for each structure (i.e. Building A, Building B, Building C, Building D on Lot 11 and 2221 Hartwick Rd to address the violations found on Lot 12 and Tract 13A – See attached **Exhibit D** for the FMO diagram of the Property).

Building A

8.16. On October 21, 2021, an inspector from FMO conducted an inspection of Building A and found ongoing violations of HC Fire Code § 105.6 (now HC § 105.5 per the January 1, 2025 revision of the Fire Code) for failure to obtain the required operational permits, a violation of HC Fire Code § 105.1.1 for failure to obtain the required permit for the construction of Building A, a violation of HC Fire Code §105.3.3 for failure to obtain a passing fire marshal inspection of Building A prior to occupancy and Fire Code § 503.1 for failure to properly mark fire lanes.

8.17. The inspector also found the following Fire Code violations at the time of the inspection:

- § 403.1 Failure to prepare a fire safety and evacuation plan,
- § 404.2.1 Failure to plan and post a fire evacuation plan,
- § 503.4 Obstruction of fire lanes,
- § 506.1.1 Failure to install KNOX locks at entry gate.

8.18. The inspection report, Notice of Violation and Operational Permit Notice were hand delivered to current occupant, Manuel Mapula. (see **Exhibit E**, for the October 21, 2021, July 10, 2023, and September 4, 2024, inspection reports for Building A)

8.19. On July 10, 2023 an inspector from FMO conducted a re-inspection of Building A and found ongoing violations of HC Fire Code §105.6 (now HC § 105.5 per the January 1, 2025 revision of the Fire Code) for failure to obtain the required operational permits, a violation of HC Fire Code § 105.1.1 for failure to obtain the required permit for the construction of Building A, a violation of HC Fire Code § 105.3.3 for failure to obtain a passing fire marshal inspection of Building A prior to occupancy, and Fire Code § 503.1 for failure to properly mark fire lanes.

8.20. The inspector also found the following Fire Code violations at the time of the inspection:

§ 403.1 Failure to prepare a fire safety and evacuation plan,

§ 404.2.1 Failure to plan and post a fire evacuation plan,

§ 503.4 Obstruction of fire lanes,

§ 506.1.1 Failure to install KNOX locks at entry gate,

§ 604.1 Failure to abate electrical hazards,

§ 604.3 Failure to maintain clearance of combustibles of 36 inches around electrical panels,

§ 906.1 Failure to maintain inspections of fire extinguishers and failure to mount fire extinguishers on the wall for accessibility.

8.21. The inspection report was hand delivered to Yellow Jacket ReadyMix LLC employee, Clark Chaudhry who received and signed for it on July 10, 2023, at 10:39 AM (see **Exhibit E** attached).

8.22. On September 4, 2024, an inspector from FMO conducted an another re-inspection of Building A and found ongoing violations of HC Fire Code § 105.6 (now HC § 105.5 per the January 1, 2025 revision of the Fire Code) for failure to obtain the required operational permits, a violation of HC Fire Code § 105.1.1 for failure to obtain the required permit for the construction of Building A, a violation of HC Fire Code § 105.3.3 for failure to obtain a passing fire marshal inspection prior to occupancy of Building A and § 503.1 for failure to properly mark fire lanes.

8.23. The inspector also found the following Fire Code violations at the time of the inspection:

§ 403.1 Failure to prepare a fire safety and evacuation plan,

§ 404.2.1 Failure to plan and post a fire evacuation plan,

§ 503.1 Failure to properly mark fire lanes,

§ 506.1.1 Failure to install KNOX locks at entry gate,

§ 604.1 Failure to abate electrical hazards,

§ 604.3 Failure to maintain clearance of combustibles 36 inches around electrical panels,

§ 906.1 Failure to maintain inspections of fire extinguishers and failure to mount fire extinguishers on the wall for accessibility.

8.24. The inspection report was hand delivered to Yellow Jacket ReadyMix LLC employee, Gaby Hernandez who received and signed for it on September 4, 2024, at 11:57 AM (see **Exhibit E** attached).

Building B

8.25. On October 21, 2021, an inspector from FMO conducted an inspection of Building B and found ongoing violations of HC Fire Code § 105.6 (now HC § 105.5 per the January 1, 2025

revision of the Fire Code) for failure to obtain the required operational permits, a violation of HC Fire Code § 105.1.1 for failure to obtain the required permit for the construction of Building B, a violation of HC Fire Code §105.3.3 for failure to obtain a passing fire marshal inspection of Building B prior to occupancy and Fire Code § 503.1 for failure to properly mark fire lanes.

8.26. The inspector also found the following Fire Code violations at the time of the inspection:

§ 403.1 Failure to prepare a fire safety and evacuation plan,

§ 404.2.1 Failure to plan and post a fire evacuation plan,

§ 503.1 Failure to properly mark fire lanes,

§ 503.4 Obstruction of fire lanes,

§ 506.1.1 Failure to install KNOX locks at entry gate,

§ 1013.1 Nonworking emergency exit signs.

8.27. The inspection report, Notice of Violation and Operational Permit Notice were hand delivered to current occupant, Manuel Mapula. (see **Exhibit E**, for the October 21, 2021, and September 4, 2024, inspection reports for Building B)

8.28. On September 4, 2024, an inspector from FMO conducted a re-inspection of Building B and found ongoing violations of HC Fire Code § 105.6 (now HC § 105.5 per the January 1, 2025 revision of the Fire Code) for failure to obtain the required operational permits, a violation of HC Fire Code § 105.1.1 for failure to obtain the required permit for the construction of Building B, a violation of HC Fire Code §105.3.3 for failure to obtain a passing fire marshal inspection of Building B prior to occupancy and § 503.1 for failure e to properly mark fire lanes.

8.29. The inspector also found the following Fire Code violations at the time of the inspection:

§ 403.1 Failure to prepare a fire safety and evacuation plan,

§ 404.2.1 Failure to plan and post a fire evacuation plan,

§ 503.1 Failure to properly mark fire lanes,

§ 506.1.1 Failure to install KNOX locks at entry gate,

§ 906.1 Failure to maintain inspections of fire extinguishers and failure to mount fire extinguishers on the wall for accessibility.

8.30. The inspection report was hand delivered to Yellow Jacket ReadyMix LLC employee, Gaby Hernandez who received and signed for it on September 4, 2024, at 11:57 AM (see **Exhibit F** attached).

Building C

8.31. On October 21, 2021, an inspector from FMO conducted an inspection of Building C and found ongoing violations of HC Fire Code § 105.6 (now HC § 105.5 per the January 1, 2025 revision of the Fire Code) for failure to obtain the required operational permits, a violation of HC Fire Code § 105.1.1 for failure to obtain the required permit for the construction of Building C, a violation of HC Fire Code §105.3.3 for failure to obtain a passing fire marshal inspection of Building C prior to occupancy and Fire Code § 503.1 for failure to properly mark fire lanes.

8.32. The inspector also found the following Fire Code violations at the time of the inspection:

§ 403.1 Failure to prepare a fire safety and evacuation plan,

§ 404.2.1 Failure to plan and post a fire evacuation plan,

§ 503.4 Obstruction of fire lanes,

§ 506.1.1 Failure to install KNOX locks at entry gate,

§ 906.1 Failure to maintain inspections of fire extinguishers and failure to mount fire extinguishers on the wall for accessibility.

8.33. The inspection report was hand delivered to current occupant, Manuel Mapula. (see **Exhibit G**, for the October 21, 2021, and September 4, 2024, inspection reports for Building C).

8.34. On September 4, 2024, an inspector from FMO conducted a re-inspection of Building C and found ongoing violations of HC Fire Code §105.6 (now HC § 105.5 per the January 1, 2025 revision of the Fire Code) for failure to obtain the required operational permits, a violation of HC Fire Code § 105.1.1 for failure to obtain the required permit for the construction of Building C, a violation of HC Fire Code § 105.3.3 for failure to obtain a passing fire marshal inspection of Building C prior to occupancy and § 503.1 for failure to properly mark fire lanes.

8.35. The inspector also found the following Fire Code violations at the time of the inspection:

§ 403.1 Failure to prepare a fire safety and evacuation plan,

§ 404.2.1 Failure to plan and post a fire evacuation plan,

§ 506.1.1 Failure to install KNOX locks at entry gate,

§ 906.1 Failure to maintain inspections of fire extinguishers and failure to mount fire extinguishers on the wall for accessibility.

8.36. The inspection report was hand delivered to Yellow Jacket ReadyMix LLC employee, Gaby Hernandez who received and signed for it on September 4, 2024, at 11:59 AM (see **Exhibit G** attached).

Building D

8.37. On October 21, 2021, an inspector from FMO conducted an inspection of Building D and found ongoing violations of HC Fire Code § 105.6 (now HC § 105.5 per the January 1, 2025 revision of the Fire Code) for failure to obtain the required operational permits, a violation of HC Fire Code § 105.1.1 for failure to obtain the required permit for the construction of Building D, a violation of HC Fire Code § 105.3.3 for failure to obtain a passing fire marshal inspection of Building D prior to occupancy and Fire Code § 503.1 for failure to properly mark fire lanes.

8.38. The inspector also found the following Fire Code violations at the time of the inspection:

§ 403.1 Failure to prepare a fire safety and evacuation plan,

§ 404.2.1 Failure to plan and post a fire evacuation plan,

§ 503.4 Obstruction of fire lanes,

§ 506.1.1 Failure to install KNOX locks at entry gate,

§ 906.1 Failure to maintain inspections of fire extinguishers and failure to mount fire extinguishers on the wall for accessibility.

8.39. The inspection report was hand delivered to current occupant, Manuel Mapula. (see **Exhibit H**, for the October 21, 2021, and September 4, 2024, inspection reports for Building D)

8.40. On September 4, 2024, an inspector from FMO conducted a re-inspection of Building D and found ongoing violations of HC Fire Code § 105.6 (now HC § 105.5 per the January 1, 2025 revision of the Fire Code) for failure to obtain the required operational permits, a violation of HC Fire Code § 105.1.1 for failure to obtain the required permit for the construction of Building D, a violation of HC Fire Code § 105.3.3 for failure to obtain a passing fire marshal inspection of Building D prior to occupancy and § 503.1 for failure to properly mark fire lanes.

8.41. The inspector also found the following Fire Code violations at the time of the inspection:

§ 403.1 Failure to prepare a fire safety and evacuation plan,

§ 404.2.1 Failure to plan and post a fire evacuation plan,

§ 506.1.1 Failure to install KNOX locks at entry gate,

§ 906.1 Failure to maintain inspections of fire extinguishers and failure to mount fire extinguishers on the wall for accessibility.

8.42. The inspection report was hand delivered to Yellow Jacket ReadyMix LLC employee, Gaby Hernandez who received and signed for it on September 4, 2024, at 11:59 AM (see **Exhibit H** attached).

2221 Hartwick Rd (Lot 12 and Tract 13A)

8.43. On October 21, 2021, an inspector from FMO conducted an inspection of 2221 Hartwick Rd (Lot 12 and Tract 13A) and found ongoing violations of HC Fire Code § 105.6 (now HC § 105.5 per the January 1, 2025 revision of the Fire Code) for failure to obtain the required operational permits, a violation of HC Fire Code § 105.1.1 for failure to obtain the required permit for the construction of the building on the property, a violation of HC Fire Code § 105.3.3 for failure to obtain a passing fire marshal inspection of the building prior to occupancy and Fire Code § 503.1 for failure to properly mark fire lanes.

8.44. The inspector also found the following Fire Code violations at the time of the inspection:

§ 304.1 Combustible waste accumulation,

§ 315.3.1 Minimum of 24 inches of clearance of combustibles from ceiling,

§ 315.3.3 Combustible material stored in electrical room,

- § 403.1 Failure to prepare a fire safety and evacuation plan,
- § 404.2.1 Failure to plan and post a fire evacuation plan,
- § 503.4 Obstruction of fire lanes,
- § 505.1 Missing address identification,
- § 506.1.1 Failure to install KNOX locks at entry gate,
- § 604.1 Abatement of electrical hazards,
- § 604.3.1 Labeling on doors to electrical room,
- § 604.3 Clearance of 36 inches of combustibles around electrical panels,
- § 906.1 Failure to maintain inspections of fire extinguishers and failure to mount fire extinguishers on the wall for accessibility,
- § 1003.6 Blocked path of egress,
- § 1008.1 Emergency lighting required for exit route,
- § 1010.9 Doors for egress shall be readily operable,
- § 1013.1 Exits and exit doors properly marked.

8.45. The inspection report was hand delivered to current occupant, Manuel Mapula. (see **Exhibit I**, for the October 21, 2021, inspection report for 2221 Hartwick Rd , Lot 12 and Tract 13A)

8.46. To date, the Property remains in violation of the Fire Code and Floodplain Regulations.

9. DEFENDANTS' VIOLATIONS OF THE FIRE CODE

9.1. Defendants violated HC §105.6 (now §105.5 per the January 1, 2025, revision to the Fire Code) by failing to obtain the required operational permits for operations on Lot 11 and on Lot 12 and Tract 13A since at least September 8, 2022, to the present. Failure to obtain the

required operational permits for the operations on Lot 11 and Lot 12 and 13A are two separate violations constituting at least 1,792 days of violation. Each day of a continuing violation is a separate violation. Defendants are liable for a penalty within the statutory range for each day of violation.

9.2. Defendants violated §105.1.1 of the Fire Code by failing to obtain construction permits for Buildings A, B, C and D and for the development on Lot 12 and Tract 13A since at least September 8, 2022, to the present. This constitutes at least 4,480 days of violation. Each day of a continuing violation is a separate violation. Defendants are liable for a penalty within the statutory range for each day of violation.

9.3. Defendants violated §105.3.3 of the Fire Code by allowing the occupation of the Buildings A, B, C and D and the structure on Lot 12 and Tract 13A since at least September 8, 2022, to present without the required final inspections and Certificates of Compliance. This constitutes at least 4,480 days of violation. Each day of a continuing violation is a separate violation. Defendants are liable for a penalty within the statutory range for each day of violation.

9.4. Defendants violated § 403.1 of the Fire Code by failing to have an emergency preparedness plan prepared for Buildings A, B, C and D and for the structure on Lot 12 and 13A at the time of each of the inspections. This constitutes at least 10 days of violation. Each day of a continuing violation is a separate violation. Defendants are liable for a penalty within the statutory range for each day of violation.

9.5. Defendants violated § 404.2.1 of the Fire Code by failing to have an emergency preparedness plan prepared for Buildings A, B, C and D and for the structure on Lot 12 and 13A at the time of each of the inspections. This constitutes at least 10 days of violation. Each day of

a continuing violation is a separate violation. Defendants are liable for a penalty within the statutory range for each day of violation.

9.6. Defendants violated § 503.1 of the Fire Code by failing to provide and/or maintain fire lanes for Buildings A, B, C and D and the structure on Lot 12 and Tract 13A since at least September 8, 2022, to present. This constitutes at least 4,480 days of violation. Each day of a continuing violation is a separate violation. Defendants are liable for a penalty within the statutory range for each day of violation.

9.7. Defendants violated § 503.4 of the Fire Code by obstructing fire apparatus access roads at Building A during the July 10, 2023, inspection. This constitutes at least 1 day of violation. Each day of a continuing violation is a separate violation. Defendants are liable for a penalty within the statutory range for each day of violation.

9.8. Defendants violated § 506.1.1 of the Fire Code by failing to properly install KNOX locks at each entry gate at the Property on July 10, 2023, and September 4, 2004. This constitutes at least 4 days of violation. Each day of a continuing violation is a separate violation. Defendants are liable for a penalty within the statutory range for each day of violation.

10. DEFENDANTS' VIOLATIONS OF THE FLOODPLAIN REGULATIONS

10.1. Defendants violated Floodplain Regulations § 4.01 by failing to obtain a Permit for all Development on the Property from at least September 8, 2022, (the date Defendants acquired the Property) to the present. Specifically, the Defendants failed to obtain permits for the following:

- Driveway Resurfacing with Existing Culvert,
- Detention Pond,
- Paving Out of the Right-of-Way,
- Three Unenclosed Accessory Buildings (each a separate violation),

- Four Enclosed Accessory Buildings (each a separate violation),
- One Enclosed Building with a Carport,
- Resurfacing of Driveway,
- Commercial Paving Out of Right-of-Way,
- Approx. 606 Cubic Yards of Fill Material Throughout Site,
- Addition to Existing Building.

This constitutes at least 13,440 days of violation. Each day of a continuing violation is a separate violation. Defendants are liable for a penalty within the statutory range for each day of violation.

11. REQUEST FOR TEMPORARY AND PERMANENT INJUNCTION

11.1. As shown above, Defendants violated provisions of the Fire Code and the Floodplain Regulations. Therefore, Harris County seeks a temporary injunction ordering Defendants 2210 Hartwick, LLC and Yellow Jacket ReadyMix, LLC to comply with the Fire Code and the Floodplain Regulations at the Property.

11.2. Harris County requests a temporary injunction against the Defendants Yellow Jacket ReadyMix, LLC and 2210 Hartwick, LLC, ordering the Defendants, their agents, officers, directors, servants, and employees, and all other persons who receive actual notice of the injunction to be enjoined as follows:

- (1) As used in this injunction, the words and terms set forth below have the following meanings:
 - a. “Administratively Complete” shall mean a permit application that is complete and has been submitted to the Harris County Engineering Department along with any required fees and attachments. An Administratively Complete

permit application is ready for technical review under the Floodplain Regulations.

b. “As- Built Certificate” shall mean the Harris County form used to indicate that the development was completed in accordance with the drawings and specifications as permitted by OCE. The As-Built Certificate must be completed, signed, and sealed by a registered.”

c. “Certificate of Compliance” shall mean a document issued by the Harris County indicating a site is in compliance with all Harris County regulations as of a specific date.”

d. “Day” or “Days” shall mean calendar day.

e. “Defendants” shall mean Yellow Jacket ReadyMix, LLC and 2210 Hartwick, LLC.

f. “Development” shall mean any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, Substantial Improvements to existing buildings or structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

g. “Effective Date” shall mean the date the Court signs the Injunction.

h. “Fire Code” shall mean the Harris County Fire Code.

i. “Final Inspection” shall mean an inspection performed by the Harris County Engineering Department or the Harris County Fire Marshal’s Office, as required by the Engineering Department or the Harris County Fire Marshal’s Office, as required by the Floodplain Regulations and Fire Code, respectively.

- j. “Floodplain Regulations” shall mean the Regulations of Harris County, Texas for Floodplain Management.
- k. “Harris County” or “Plaintiff” shall mean Harris County, Texas, a political subdivision of the State of Texas.
- l. “HCAO” shall mean Harris County Attorney’s Office.
- m. “HCFMO” shall mean the Harris County Fire Marshal’s Office.
- o. “Parties” shall mean Plaintiff Harris County and Defendants Yellow Jacket ReadyMix, LLC and 2210 Hartwick, LLC collectively.
- q. “Permit” shall mean a permit as required by the Floodplain Regulations or Fire Code.
- r. “Property” shall mean the real property located at or near 2219 Hartwick Rd, Houston, Texas 77093.
- s. “OCE” shall mean the Office of the County Engineer.
- t. “Site” shall have the same meaning as Property.

11.3. No later than 30 Days after the Effective Date of the injunction, Defendants shall submit an Administratively Complete Permit application for all Development on the Property. Should OCE make comments to or otherwise reject Defendants’ Site Plans and or permit application, Defendants shall have 14 Days to respond and re-submit plans or other documentation through E-permits.

11.4. No later than 30 Days after the Effective Date of this injunction, Defendants shall submit an Administratively Complete permit application for all operational permits required by the Fire Code. If the FMO makes any comments, requests additional information, or otherwise

rejects Defendants' application for operational permits, Defendants shall have 14 Days to respond by resubmitting the application with any additional information or changes that may be required.

11.5. No later than 90 Days after the Effective Date of the injunction, Defendants shall have removed the unpermitted Development from the Property unless Defendants have obtained:

- a. A Class I or II Permit for all Development on the Property; and
- b. Have submitted an As-Built Certificate for all Development at the Property; and
- c. Have passed a Final Inspection for all Development on the Property under the Floodplain Regulations; and
- d. Have passed and obtained a Certificate of Inspection for all structures on the Property from the FMO; and
- e. Have been issued a Certificate of Compliance, pursuant to Floodplain Regulations § 6.02(e), for all Development at the Property.

11.6. No later than 90 Days after the Effective Date of the Injunction, Defendants shall cease all operations at the Property unless Defendants have obtained operational permits under the Fire Code.

11.7. No later than 14 Days after the Effective Date of this Injunction and every 14 Days thereafter, Defendants shall prepare and submit to OCE and FMO, 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 14-Day period immediately past; (2) the work expected to be performed in the current 14-Day 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 has been performed at the Property, 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.

Defendants shall submit the Status Report to each of following by either email or First-Class Mail:

J. Armando Sanchez
Manager of Compliance
Harris County Engineering Department
1111 Fannin, 8th floor
Houston, Texas 77002
Email: enforcement@eng.hctx.net

Lieutenant Joseph Lamont
Harris County Fire Marshal's Office
218 Atascocita Road
Humble, Texas 77396
Email: joseph.lamont@fmo.hctx.net

and

R. Chan Tysor, Jr.
Assistant County Attorney
Environmental Division
1019 Congress, 15th Floor
Houston, Texas 77002
Email: chan.tysor@harriscountytexas.gov

11.8. Harris County requests any additional or alternative injunctive relief deemed appropriate by this Court.

11.9. Upon final trial, Harris County requests that this Court make the temporary injunction against Defendants permanent.

12. CIVIL PENALTIES

12.1. Harris County requests that Defendants be assessed a civil penalty of not more than \$200 for each act of violation and for each day of violation of the Fire Code Regulations. Tex. Loc. Gov't Code § 233.067.

12.2. Harris County requests that Defendants be assessed a civil penalty of not more than \$100 for each act of violation and for each day of violation of the Floodplain Regulations. Tex. Water Code § 16.322.

13. CONDITIONS PRECEDENT

13.1. All conditions precedent to Harris County's claim for relief have been performed or have occurred.

14. COSTS

14.1. Harris County requests that, upon final hearing, this Court award Harris County costs, to be recovered from Defendants.

15. RULE 193.7 NOTICE

15.1. Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure Harris County gives actual notice to the Defendants that any and all documents produced may be used against Defendants at any pretrial proceeding and/or trial of this matter without the necessity of authenticating the documents.

16. NOTICE OF REQUIRED DISCLOSURES PURSUANT TO RULE 194

16.1. Except as exempted by Rule 194.2(d) or as otherwise agreed by the parties or ordered by the Court, a party must, without awaiting a discovery request, provide to the other parties the information or material described in Rule 194.2, 194.3 and 194.4.

16.2. If a party does not produce copies of all responsive documents, electronically stored information, and tangible things with the response, the response must state a reasonable time and method for production of these items. The responding party must produce the items at the time and in the method stated, unless otherwise agreed by the parties or ordered by the Court, and must provide the requesting party a reasonable opportunity to inspect them.

17. PRAYER

17.1. Harris County, Texas, asks this Court for a final judgment and a permanent injunction against Defendants as follows:

1. That Defendants be cited to appear and answer herein;
2. That upon notice and hearing, a temporary injunction be granted against Defendants as requested above;
3. That upon final trial of this cause, a permanent injunction be granted against Defendants as requested above;
4. That upon trial final trial of this cause, this Court grant civil penalties against Defendants, within the range allowed by law, as requested above, plus post-judgment interest;
5. That upon final trial of this cause, this Court grant that all costs be assessed against Defendants; and
6. This Court grant such other and further relief to which Harris County may be justly entitled.

Respectfully submitted,

CHRISTIAN D. MENEFEE
Harris County Attorney

JONATHAN G. C. FOMBONNE
First Assistant County Attorney

TIFFANY S. BINGHAM
Managing Counsel, Affirmative Litigation,
Environmental & Compliance

SARAH J. UTLEY
Division Director, Environmental

R. Chan Tysor, Jr.

R. Chan Tysor, Jr.
Assistant County Attorney
Environmental Division
State Bar No. 20369300
1019 Congress, 15th Floor
Houston, Texas 77002
Telephone: (713) 274-5150
Fax: (713) 437-4211
Email: chan.tysor@harriscountytexas.gov

**ATTORNEYS FOR PLAINTIFF
HARRIS COUNTY, TEXAS**

VERIFICATION

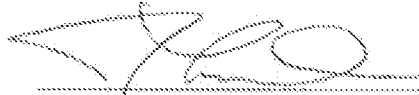
STATE OF TEXAS §
 §
COUNTY OF HARRIS §

Before me, the undersigned notary, on this day personally appeared Joseph Lamont, a person whose identity is known to me. After I administered an oath to him, upon his oath he said:

“My name is Joseph Lamont. I am over the age of twenty-one years and of sound mind, capable of making this Affidavit, and personally acquainted with the facts herein.

I am employed by the Harris County Fire Marshal’s Office as a Lieutenant.

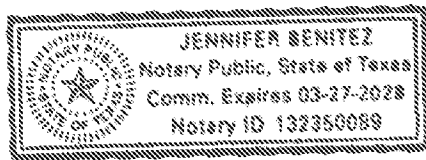
I have read the foregoing *Harris County’s Original Petition and Application Temporary and Permanent Injunction in Harris County, Texas vs. Yellow Jacket ReadyMix, LLC and 2210 Hartwick, LLC* and I am familiar with the facts alleged. The facts stated in Section 8, Paragraphs 8.15 to 8.46 of the petition are within my personal knowledge and are true and correct.”



Lt. Joseph Lamont

SWORN AND SUBSCRIBED TO before me on March 3rd, 2025, to certify which witness may hand and official seal.



Notary Public and for the State of Texas

VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

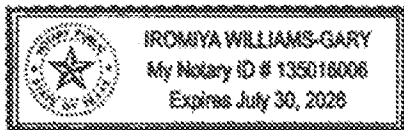
Before me, the undersigned notary, on this day personally appeared J. Armando Sanchez, a person whose identity is known to me. After I administered an oath to him, upon his oath he said:

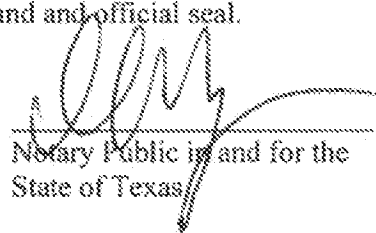
"My name is J. Armando Sanchez, I am over the age of twenty-one years and of sound mind, capable of making this Affidavit, and personally acquainted with the facts herein:

I am employed by the Harris County Engineering Department as Manager of Compliance. I have read the foregoing Harris County's Original Petition and Application for Temporary and Permanent Injunction in *Harris County, Texas v. Yellow Jacket ReadyMix, LLC and 2210 Hartman, LLC* and am familiar with the facts alleged. The facts alleged in Section 8, Paragraphs 8.5 through 8.14 of the petition are within my personal knowledge and are true and correct."


J. Armando Sanchez

SWORN TO AND SUBSCRIBED TO before me on this the 4th day of March, 2025, to certify which witness my hand and official seal.




Notary Public in and for the
State of Texas

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 98273529

Filing Code Description: Petition

Filing Description: Harris County's Original Petition and Application for Temporary and Permanent Injunction

Status as of 3/10/2025 3:48 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Neetu Harrysingh		neetu.harrysingh@harriscountytexas.gov	3/10/2025 3:14:16 PM	NOT SENT
Chan Tysor		chan.tysor@harriscountytexas.gov	3/10/2025 3:14:16 PM	NOT SENT



I, Marilyn Burgess, 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 March 10, 2025

Certified Document Number: 119384062 Total Pages: 30

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 51.301 and 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