

Environmental Quality Control Board
Miami-Dade County
701 NW 1st Court, 6th Floor
Miami, Florida 33136

Date: October 10, 2025

Via Email: ecqb@miamidade.gov

RE: Motion for Reconsideration / Request to Modify Order- EQCB Case No. 2025-EQCB-00050 - Appeal of DERM Tree Removal Permit No. TREE-2500284- 8300 NE 4th Place, El Portal, Florida 33138

From: Scott Kobrick (Appellant)

Address:
400 NE 85th Street
El Portal, FL 33138
Email: scottkobrick@gmail.com

Dear Clerk of the Environmental Quality Control Board:

I, Scott Kobrick, respectfully move for Environmental Quality Control Board (EQCB) to reconsider or modify its October 9, 2025 order denying my request for continuance and my appeal of DERM Tree Removal Permit No. TREE-2500284 for 8300 NE 4th Place, El Portal. This request is made pursuant to Miami-Dade County Code § 24-11 and the Board's inherent authority to ensure due process in quasi-judicial proceedings.

Factual Timeline (Notice and Opportunity to Prepare)

- Friday, October 3, 2025: I received the first email notice that my EQCB appeal had been scheduled for Thursday, October 9, 2025 at 1:30 PM.
- Monday, October 6, 2025 at 2:13 PM: DERM emailed me it's staff memorandum and recommendation regarding my appeal. This was the first time I was made aware a memorandum existed. The memorandum had been posted to the record on October 3, 2025, but I was not notified or provided a link until October 6th due to said technical issues from EQCB, that I was not made aware of until then. I was told that whatever I submitted at that point, including information I immediately sent the same day I was sent the memorandum, on October 6, would likely not have a chance to be reviewed and considered.
- Tuesday, October 7, 2025: I requested a continuance due to the short notice, my preexisting business travel, and the late delivery of critical materials that deprived me of

reasonable time to review and respond to DERM's memorandum, submit responsive evidence, and secure expert rebuttal testimony.

- Thursday, October 9, 2025: The Board denied the continuance and denied my appeal.

Procedural-Due-Process Grounds

The late transmittal of the DERM staff memorandum—emailed at 2:13 PM on Monday, October 6 for a hearing at 1:30 PM on Thursday, October 9—provided me with less than 72 hours, and effectively only two full business days, to review the County's primary evidence and prepare a response. This timing deprived me of a meaningful opportunity to be heard and to present rebuttal evidence through no fault of my own. Although the memorandum was reportedly posted to the record on October 3, it was not served or made known to me until October 6. Under Miami-Dade County Code § 24-11 and constitutional due-process principles applied to local quasi-judicial proceedings, a party must receive reasonable notice and a fair chance to prepare and respond.

Posting publicly isn't enough if the affected party wasn't actually informed or reasonably able to find and review it. Florida courts are clear that:

“Procedural due process requires actual notice and a meaningful opportunity to be heard—not merely theoretical availability of information.”

- *Keys Citizens for Responsible Gov't v. Florida Keys Aqueduct Auth.*, 795 So.2d 940 (Fla. 2001)*

“The introduction of new material without adequate opportunity to respond constitutes a denial of due process.”

- *School Board of Leon County v. Weaver*, 556 So.2d 443 (Fla. 1st DCA 1990).

Even if filed to the online docket on Oct 3rd- which I later came to find out- that's not the same as giving me **actual notice** of the existence of that memo. I didn't know to look for it, I wasn't told it existed, and you didn't receive a link or file until **Oct 6th** — less than 72 hours before the hearing. This was not reasonable notice and time to respond to substantive agency findings, as required. Notice must be reasonably calculated to allow participation and response.

I was an affected party, that filed and paid \$709 to file the appeal. I received no correspondence, or notification of anything until the aforementioned timeline.

The Board's denial of a short continuance, given the late disclosure, compounded the prejudice and resulted in a denial of procedural due process.

Request for Reconsideration/ to Modify Order

I respectfully request that the Environmental Quality Control Board:

1. Vacate or modify the October 9, 2025 Order denying my appeal;
2. Reinstate the stay of DERM Tree Removal Permit No. TREE-2500284 pending reconsideration;
3. Schedule a rehearing, with reasonable advance notice and timely transmittal of all staff materials, to allow for reasonable amount of time to submit rebuttal, and introduce new evidence and testimony in time for review and consideration- including a report from a certified arborist (Ian Wogan, Treesources), that was initiated immediately after receiving the DERM's memorandum, and *confirms that two specimen Ficus trees remain viable for preservation*, which directly contradicts the false statements made in the memorandum that the trees were 'destroyed' and 'removed' ;
4. Grant such additional relief as may be just and proper to protect the integrity of the process and prevent irreparable harm.

Conclusion

The Department's staff memorandum, which formed the basis for the recommendation adopted by the Board, was transmitted to me on October 6, 2025 - less than seventy-two (72) hours before the hearing. The memorandum contained new factual assertions and conclusions that I had no reasonable opportunity to review, respond to, or rebut through expert evidence or written submission.

This timing falls far short of the reasonable notice required under Florida law and basic due process principles. The Board's denial of a continuance, despite this late disclosure, deprived me of due process.

Given the clear procedural deficiencies and emergence of new, material evidence contradicting the factual basis of DERM's recommendation, I respectfully urge the Board to reconsider its Order. Immediate action is warranted to ensure that accurate information and due process govern this decision of substantial environmental and personal consequence.

Respectfully submitted,



Scott Kobrick, Appellant

Date: October 10, 2025