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Legal Tensions Ease as Refinery Access Badges Renewed in St. Croix

Port Hamilton moves to withdraw its court motion against Ocean Point, signaling a de-escalation in the access badge conflict

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Refinery and Oil Terminal facility on the south shore of St. Croix. By. V.I. CONSORTIUM

In a recent development at St. Croix's south shore refinery, operations continue uninterrupted with the renewal of access badges for Port Hamilton Refining and Transportation's employees and contractors. This update follows a court notice indicating Port Hamilton's intent to withdraw its motion for a temporary restraining order and preliminary injunction against Ocean Point Terminals, suggesting a resolution to the previously escalating access dispute.

Filed on December 30 2023, the notice from Port Hamilton's lawyers claims that Ocean Point renewed the security badges without requiring the signing of the contested individual access agreements, and therefore the need for immediate court intervention had been obviated. "The case will continue, however, on a more traditional scheduling path," Port Hamilton declared, as the intention is to "amend its complaint to add a claim for a declaratory judgment decreeing that Ocean Point may not condition Port Hamilton's or its invitees' access to Port Hamilton's property on any basis," except that required by the federal government, the notice went to on say.

For its part, Ocean Point has responded to Port Hamilton's withdrawal in a filing dated December 31, 2023, saying that the refinery operator was not telling the court the truth. The security badges had been extended long before PHRT filed the initial application for a temporary restraining order, a circumstance that had been confirmed by counsel for both parties, Ocean Point's lawyers contend. Thus, Port Hamilton's request to the court was moot even before it had been filed. The notice of withdrawal, Ocean Point says, was nothing but an admission that the plaintiff's "motion and lawsuit were wholly without merit and a complete and utter waste of time and judicial resources."

Indeed, the required Individual Access Agreements were not a new requirement, as framed by Port Hamilton, but a longstanding procedure dating back to at least 2009, when HOVENSA owned the facility. PHRT staff and contractors have been signing the agreements since Port Hamilton purchased the refinery in 2022, Ocean Point claims. In fact, both "Plaintiff's counsel of record Andy C. Simpson" and "David A. Johnson, Plaintiff's Majority Member who signed the Verified Complaint" signed individual access agreements since the PHRT takeover.

As such, Ocean Point says that the court should not entertain PHRT's ongoing quest for declaratory or injunctive relief in the matter.

The New Year's Eve legal squabble between the parties did not end there, however, with PHRT firing back a response of its own on December 31. In the filing, PHRT claims that there's a difference between the requirements and restrictions first HOVENSA, and then Limetree Bay, placed on access to their own property, and the requirement for PHRT's staff and contractors to sign agreements with Ocean Point to be able to access PHRT's property, i.e. the refinery. The refinery's acquisition in January 2022 gave PHRT "easements, rights of access, and rights of use across Ocean Point's property in order to access the refinery property it owned. This is an absolute property right," PHRT argued, saying that Ocean Point had no jurisdiction over the access of PHRT's staff and contractors, except to ensure "that individuals entering the premises comply with federal security requirements."

PHRT further contends that staff of its main contractor Pinnacle had their security badges renewed for 2023 without being required to sign individual access agreements. One new Pinnacle employee hired last November was required to sign the agreement, evidence that Ocean Point had implemented a new policy, PHRT's attorneys argue.

In this light, PHRT believes that the case should continue, albeit without the urgency as previously requested.