

EXHIBIT 14

REQUEST FOR WAIVER OF 47 C.F.R. §73.24(i)

In connection with the instant application, James Crystal Licenses, LLC, (“JCL”) the licensee of WFL(AM) Facility ID#67812) requests, if necessary, a waiver of 47 C.F.R. §73.24(i). Waiver may be necessary because the proposed facility modifications result in coverage of 78.15% of the community of license (Fort Lauderdale) by the nighttime interference-free (“NIF”) contour, whereas the Rule requires a minimum coverage of 80% of the principal community.

However, the prefatory paragraph of Section 73.24 states that:

“An authorization for **a new AM broadcast station** or **increase in facilities of an existing station** will be issued only after a satisfactory showing has been made in regard to the following, among others: (emphasis added)”

The instant application involves an involuntary move of facilities a short distance from their currently licensed location. Notably, this application is not an authorization for a new AM station nor an increase in facilities of an existing station. As such, based on the plain language above, it does not appear that a waiver is necessary. However, in an abundance of caution, and in the event staff does not concur with the analysis above, JCL would state as follows:

BACKGROUND

WFL was originally licensed in 1946 with the principal community Fort Lauderdale, Florida and was located at the current licensed facility parameters. WFL is seeking, via this application, to move approximately 8,268 feet in distance from the current location and duplex with Station WEXY (Facility ID#9730), as detailed in the Engineering Exhibit attached hereto. Although the current licensed site meets the 80% threshold required by §73.24(i), the combination of (a) a small change in location, which shifts the site away from the traditional center of the Fort Lauderdale community, (b) a small decrease in radiation efficiency of the WEXY duplex facility as compared to the licensed facility, and (c) the expansion of the city’s legal boundaries results in the proposed site only covering 78.15% of the principal community with a nighttime interference free (NIF) contour. The omitted NIF portion of the principal community is the southern portion comprising the Fort Lauderdale-Hollywood International Airport and Port Everglades (both commercial/industrial areas).

## ARGUMENT

JCL is cognizant that waivers of Commission Rules are subject to the “hard look” doctrine of *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), but JCL respectfully submits that the instant request is one that falls within the parameters of prior Commission precedent for granting similar waivers, inasmuch as the considerations of public interest, hardship, equity and implementation of overall policy favor such a grant. See, e.g. *Letter from Associate Chief, Audio Services Division to Radio One Licenses, LLC (WWIN (AM))*, Ref. 1800B3-EAL, dated January 28, 2004.

First, one of the principal reasons for the shortfall in the NIF threshold of 80% is the addition by annexation of certain unincorporated portions of Broward County into Fort Lauderdale over the past 10 years as required by Broward County, which required local cities and towns to annex previously unincorporated lands so that Broward County could be relieved of providing public services to these properties and pass that obligation onto the cities and towns that make up the County. See Attachment “A” describing the annexation that transpired just from 2000-2003 within Broward County, including two significant parcels annexed into Fort Lauderdale. Additional annexations have transpired since 2003. As such, the principal community is no longer the same physical size as it was when WFLC was originally licensed at its current site in 1946. Without the inclusion of these annexed parcels into the City geography, WFLC’s NIF would cover in excess 80% of Fort Lauderdale as it existed prior to these annexations. Although the existing licensed site does just meet the NIF threshold, remaining at the existing licensed site is becoming untenable due to an involuntary transfer of ownership of the underlying property that is making continued operation of WFLC from that site tenuous. JCL is being proactive as a result of this potential involuntary loss of site and the relocation, as noted above, is to a nearby site.

Secondly, since WFLC cannot seek an increase of power (since it is already at maximum nighttime authorized power for a Class C AM Station) in order to provide sufficient NIF coverage over the enlarged principal community, it would constitute a hardship and be inequitable to preclude WFLC from modifying its transmitter site to the nearby proposed WEXY diplexed facility.

Thirdly there are a significant number of other stations licensed to Fort Lauderdale, specifically one additional AM and five (5) additional FM stations, together with two (2) FM translators.

Finally, the Commission has previously, under similar circumstances, granted waivers for nighttime coverage under the 80% NIF requirement.<sup>1</sup> It should also be noted that the Commission has also granted waivers of the 100% daytime coverage requirement in instances where there is similar hardship so long as there is at least 80% daytime

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<sup>1</sup> See *Bay City Communications Corp.*, 83 FCC 2d 210 (1980) and *MO&O*, MM Docket 85-20 Fed Reg. 5679 (1985)

coverage. Using the same ratios as applied therein, so long as there is at least 64% NIF coverage (8/10ths of 80%), a waiver would be warranted.

The foregoing considerations of hardship and equity should also lead to the conclusion that the waiver should be granted.

In conclusion, JCL respectfully suggests that its request for waiver is supported by the “compelling showing” required in order to be granted. *Stoner Broadcasting System, Inc.*, 49 FCC 2d 1011, 1012 (1974).

RESPECTFULLY SUBMITTED,

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# ATTACHMENT "A"



Planning Services Division

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Number 14

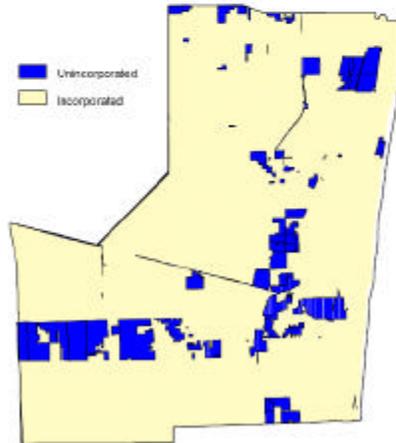
## Annexation History Since April 2000

*Since April 1, 2000, over 45,000 residents in 20 neighborhoods have been annexed into municipalities. As of September 15, 2003, 81,947 residents live in unincorporated neighborhoods.*

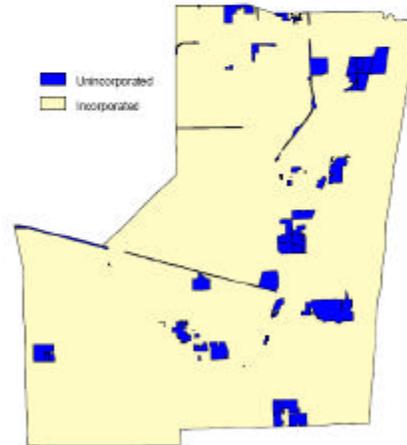
At the time of the 2000 Census, Broward County's unincorporated area was 44.8 square miles with a population of 127,365. Since then, 20 neighborhoods have annexed or incorporated into seven municipalities as shown below. As of September 15, 2003, the County's unincorporated area is 24 square miles with a population of 81,947 (based on 2000 Census population).

Between April 1, 2000 and December 2000, two municipalities gained population through annexation. The City of Fort Lauderdale annexed Palm Aire and Golden Heights which added 1,931 persons and 704 housing units to the City. Also, the Cresthaven neighborhood was annexed by the City of Pompano Beach in 2000. This area had a population of 7,741 in 2000 with 3,303 housing units.

**Broward County Unincorporated Areas  
As of April 1, 2000**



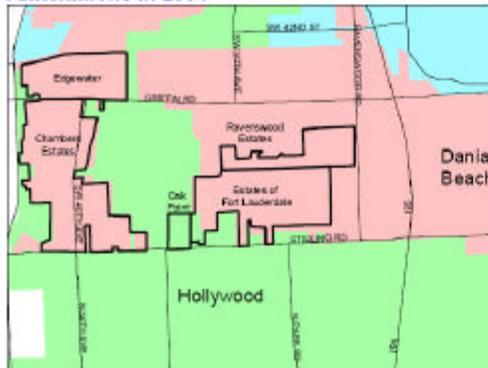
**Broward County Unincorporated Areas  
As of September 15, 2003**



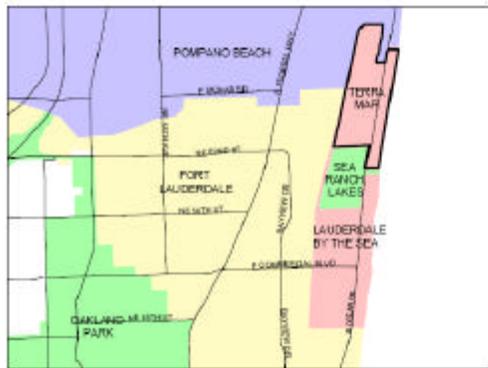
### Annexations and Incorporation in 2000

The Town of Southwest Ranches was incorporated in September 2000. This large area (13 square miles) is 63% of the total area incorporated between 2000 and 2003. Neighborhoods incorporated into the Town include: Country Estates, Green Meadow, Ivanhoe Estates, Rolling Oaks, and Sunshine Ranches. According to the 2000 Census, 7,106 people resided in the Town.

### Annexations in 2001

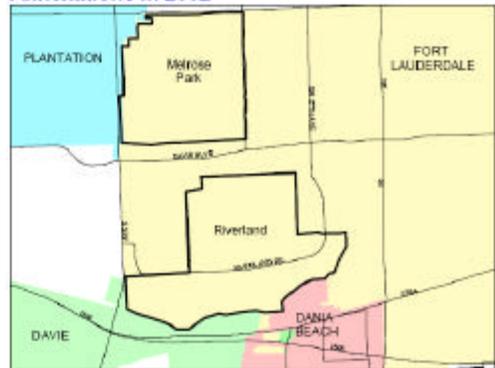


Annexations in 2001 focused on two main areas. The first area, located southwest of Fort Lauderdale/Hollywood International Airport was annexed into the cities of Dania Beach and Hollywood. Chambers Estates, Edgewater, Ravenswood Estates and a portion of Estates of Fort Lauderdale were annexed into Dania Beach. Oak Point and a portion of Estates of Fort Lauderdale were annexed into Hollywood. In total, 3,576 persons were annexed into the City of Dania Beach while 76 people joined the City of Hollywood.



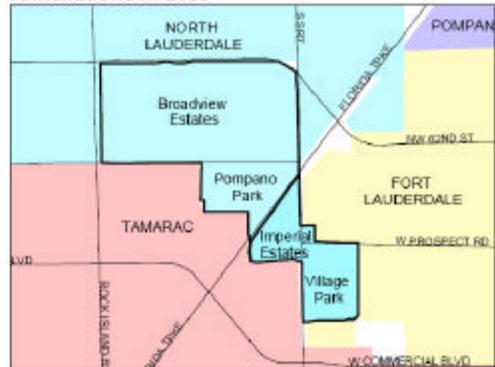
Terra Mar, located just north of Sea Ranch Lakes was also annexed in 2001. This neighborhood became part of the Town of Lauderdale-by-the-Sea adding 2,631 persons and 2,712 housing units to the Town's population.

### Annexations in 2002



Two areas were annexed in 2002. The City of Fort Lauderdale annexed both Melrose Park and the greater Riverland Area. 12,493 people in 4,244 housing units were added to the City's population.

### Annexations in 2003



On September 15, 2003, four unincorporated areas become part of the City of North Lauderdale. Broadview Estates, Pompano Park, Imperial Estates and Village Park have 6,209 residents with 2,181 housing units.

*Editor's note: All population and housing data is from the 2000 Census. Annexation figures for all neighborhoods are 2000 Census figures. Population and housing units may have increased or decreased since 2000.*

Broward-by-the-Numbers is a publication from

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