OhioEPA

State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.
Twinsburg, Ohio 44087

TELE: (330) 963-1200 **FAX:** (330) 487-0769
www.epa.state.oh.us

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

July 24, 2007

RE: CITY VIEW CENTER PROJECT
R&B DEVELOPMENT LANDFILL
NOTICE OF VIOLATION

CERTIFIED MAIL

Matt McGill,
Project Manager
McGill Property Group
Garfield Land Development LLC
30575 Bainbridge Road, Suite 100
Solon, Ohio 44139

Thomas Klein
City View Center, LLC
c/o City View Center Holding Company, LLC
27 Orchard Street
Monsey, NY 10952

Messrs. McGill and Klein:

The Ohio Environmental Protection Agency (Ohio EPA) Northeast District Office (NEDO) recently become aware, through discussions with the Garfield Heights Building Department, that underground sewer lines in the Retail D at the City View Center site have stopped functioning, possibly due to settlement beneath the floor slab. Ohio EPA was informed that masserators and pumps have been installed in restrooms in Retail D, and that plumbing has been rerouted overhead to reconnect to the sanitary sewer at the front of the building. The Building Commissioner alleged that the defective sewer has been abandoned by grouting it closed. Ohio EPA has received no formal notice of this work from you.

As you are aware, Order # 5.A.2) of the March 18, 2005, Director's Final Findings & Orders (DFF&Os), states in part, "...Respondents shall perform all activities described in Appendices C, D, E and F as they pertain to the Facilities, and Respondents shall perform all such activities in strict accordance with these Orders and the plans, specifications, and other information contained in Appendices C, D, E and F. There may be no deviation from the requirements of Appendices C, D, E and F without prior written authorization from Ohio EPA. Any future activities at the Facilities beyond those required or authorized under these Orders may require additional Ohio EPA approval."

Changes made to the sanitary sewer lines in Retail D have deviated from the activities described in Appendix E of the March 18, 2005, DFF&Os. As such, you are in violation of Order # 5.A.2) of the March 18, 2005, DFF&Os.

Ohio EPA has received no information on the extent of damage to the sanitary sewer lines and has no knowledge of the repairs that were undertaken to the sewer beneath Retail D. Please be reminded that Section 8.2 (page 32) of your OAC 3745-27-13 document, as approved through Appendix E of the March 18, 2005, DFF&Os, states, in part, "Contact the Ohio EPA and CCBH in the event of any and all settlement occurrences." Ohio EPA must be contacted when any settlement occurs at the site and should be given prior notice of any work that is to be conducted to investigate and correct the effects of settlement at the site.

Please submit, as a matter of urgency, a detailed report indicating the activities that were undertaken to investigate and remedy the defective sanitary sewers in Retail D.

Nothing in this letter shall be construed to authorize any waiver from any requirements of applicable state solid waste laws or regulations. This letter shall not be interpreted to release McGill Property Group, LLC, Garfield Land Development, LLC, or others from responsibility under ORC Chapters 3704., 3714., 3734. or 6111; under the Federal Clean Water Act, the Resource Conservation and Recovery Act, or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other applicable requirements for remedying conditions resulting from any release of contaminants to the environment.

If you have any questions regarding this letter, please do not hesitate to contact Jarnal Singh at (330) 963-1276.

Sincerely,

Jarnal Singh

Jarnal Singh R.S.
Environmental Specialist
Division of Solid & Infectious Waste Management

JS:cl

cc: Karen Naples, DSIWM-NEDO
Melinda Berry, DSIWM-CO
Robert Eubanks, AAG, AGO, EES
Denise Romano, Cuyahoga County Board of Health
John McGill, President, McGill Property Group
Bennett Kest, Kest Property Management Group, LLC
File: [Sowers/Land/CityView /COR/18]