

CITY OF TOLEDO



DEPARTMENT OF PUBLIC UTILITIES

May 16, 2007

CERTIFIED MAIL

Mr. Eric Rockwell
6207 Douglas Road
Toledo, OH 43613

Re: Notice of Violation – Open Burning

Dear Mr. Rockwell:

Enclosed is a **Notice of Violation** for non-compliance with the Ohio Administrative Code 3745-19 regarding open burning at the 5540 Fenwick, Toledo, OH. Please review this document carefully as some action, including a written response, is required on your part.

If you have any questions regarding this matter, feel free to contact me at (419) 936-3751.

Yours from Toledo – a City of the Future!*

A handwritten signature in cursive script that reads "Marilyn Dufour".

Marilyn Dufour
Environmental Specialist

* fDi Magazine-April 2007
MBD/mbd

Enclosures

cc: Lisa Holscher, U.S. EPA, Region V
John Paulian, Ohio EPA
T. Casey Stephens, Commissioner, Toledo Division of Environmental Services
Karen Granata, Chief, Air Resources
Andrew Oblander, Tenant

T. Casey Stephens, Commissioner
DIVISION OF ENVIRONMENTAL SERVICES
Quilter Environmental Center
348 South Erie Street, Toledo, Ohio 43604-8633 USA
Telephone: 419-936-3015 Fax: 419-936-3959 E-mail: casey.stephens@toledo.oh.gov

NOTICE OF VIOLATION

May 16, 2007

As a contractual Agent of the Ohio Environmental Protection Agency, the City of Toledo Division of Environmental Services hereby serves notice that:

Mr. Eric Rockwell, Owner
5540 Fenwick Drive
Toledo, OH 43623

has violated the following environmental laws, orders, rules, or regulations on the indicated dates at the above address.

Regulations Violated	Description and Dates of Violations
<p>OAC Rule 3745-19-03 (A), (B) (2) (a), (b)</p> <p>3745-19-03 Open burning in restricted areas. (A) No person or property owner shall cause or allow open burning in a restricted area except as provided in paragraphs (B) to (D) of this rule or in section <u>3704.11</u> of the Revised Code. (B) Open burning shall be allowed for the following purposes without notification to or permission from the Ohio EPA: (2) Bonfires, campfires and outdoor fireplace equipment, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes, if the following conditions are met: (a) They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood; (b) They are not used for waste disposal purposes.</p> <p>TMC 1777.02 (a), (b)</p> <p>1777.02 Open burning prohibited. (a) No person shall permit any open burning in the City without prior approval of the Administrator. (b) It shall be prima-facie evidence that the person who owns or controls property on which open burning occurs has caused or permitted such open burning.</p> <p>TMC 1777.01</p> <p>1777.01 Air pollution nuisances prohibited. The emission or escape into the open air from any source or sources whatsoever, of smoke, ashes, dust, dirt, grime, acids, fumes or combinations of substances, in such manner or in such amounts as to endanger or tend to endanger the health, comfort, safety or welfare of the public, or is unreasonably offensive and objectionable to the public, or shall cause unreasonable injury or damage to property or interfere with the comfortable enjoyment of property or normal conduct of business, is hereby found and declared to be a public nuisance. No person shall cause, permit, or maintain any such public nuisance.</p>	<p>On April 30, 2007, Toledo Division of Environmental Services (TES) personnel observed a small pile of smoldering landscape waste composed primarily of grass and woody trimmings with leaves still attached in a fire pit with a section of a metal drum as a container behind the residence at 5540 Fenwick Drive. The pile was attended by tenant Andrew Oblander, appeared damp and was smoking moderately. Observations were made at approximately 3:25 p.m.</p> <p>On May 7, 2007, TES personnel observed tenant Andrew Oblander burning garbage, landscape waste, and scrap lumber with nails in a fire pit with a section of a metal drum as a container behind the residence at 5540 Fenwick Drive. Observations were made at approximately 2:15 p.m.</p> <p>TES has received complaints regarding open burning at 5540 Fenwick Drive and the negative impact of the smoke on the health of and the use of adjoining property by neighbors beginning in May of 2006.</p>

For your information, please refer to the enclosed "Before You Light It...Know Ohio's Open Burning Regulations" brochure and flyer describing local disposal options for landscape waste. The above violation(s) may subject the violator to **penalties** of up to \$25,000 per violation. It is possible that a penalty will be assessed in this case. If a penalty is to be assessed, the amount will be determined after your response is reviewed.

Required Actions

Within 14 days of receipt of this Notice of Violation, you shall:

1. Abate the violations or provide for an acceptable remedy.
2. Reply in writing to this Notice of Violation. The reply shall include:
 - a. Description(s) and date(s) of action(s) taken thus far to abate the violation(s).
 - b. Description(s) and expeditious time schedule of action(s) yet to be taken to remedy the violation(s).
 - c. Description(s) of action(s) taken or to be taken to prevent recurrence of the violation(s).

Your written response, and any questions regarding this Notice of Violation, should be directed to Marilyn DuFour, City of Toledo Division of Environmental Services, 348 S. Erie Street, Toledo, Ohio 43604.

The submission of the above requested information does not constitute a waiver of Ohio EPA's authority to seek civil penalties pursuant to Ohio Revised Code § 3704.06. Ohio EPA will make a decision on whether to pursue or decline to pursue such penalties regarding this matter at a later date.

