



State of Ohio Environmental Protection Agency

Northeast District Office

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

July 10, 2007

CERTIFIED MAIL

Ms. Denise Whitt
Richard's Your Outdoor Connection
4757 South Hills Drive
Cleveland, Ohio 44109

RE: Asbestos Rule Violations by Demolishing Two Structures at 518 and 520 Middle Avenue, Elyria, Ohio.

Dear Ms. Whitt:

On May 23, 2007, this office was informed that a demolition was taking place near downtown Elyria on the east side of Middle Avenue, and there was a fear that asbestos might have been in the structure. On May 24, 2007, I conducted an investigation and the following is a summary of my findings:

1. On May 2, 2007, the City of Elyria Building Department issued your company two separate demolition permits (Nos. PD07-0012 and PD07-0013) allowing you to demolish two structures located at 518 Middle Ave. and 520 Middle Ave., Elyria, Ohio.
2. The structure at 518 Middle Ave. was a 1,000 square feet residential dwelling, and the structure at 520 Middle Ave. was a 3,500 square feet five unit building.
3. During the field inspection on May 24, 2007, I observed that the demolition was approximately 90% complete, and very little debris remaining on the property.
4. A "Martin" demolition loader and two (2) "Landmark" roll-offs were on site. One roll-off was approximately 1/4 full of debris.
5. Four (4) samples of debris were obtained for asbestos analysis. Two samples were plaster material taken from the west area of the property, and two samples were a surfacing/insulating material taken near what appeared to be parts of a boiler at the north-central area of the property.

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6. Analysis of the samples showed the two (2) plaster pieces contained trace amounts of chrysotile asbestos, and one of the surfacing pieces contained sixty-five 65% chrysotile asbestos.
7. The agency had not received results of any inspection conducted to determine if the structure(s) contained asbestos, and no notification(s) of demolition or renovation prior to demolition activity taking place.

Based on the above information, the demolitions that were conducted at the above stated locations were subject to compliance with the Clean Air Act and regulations promulgated thereunder, setting forth a National Emission Standard for Asbestos 40 CFR 61.140, et seq. (NESHAP Asbestos Standard). This type of operation was also subject to Ohio Administrative Code (OAC) Chapter 3745-20, "Ohio Asbestos Emission Control Rules." Pursuant to 40 CFR 61.04(b)(KK), the authority to implement and enforce the NESHAP has been delegated to the State of Ohio Division of Air Pollution Control. Parallel enforcement authority is retained by the administrator of the USEPA for any violations for which Ohio is unable to initiate a required enforcement action.

In accordance with 40 CFR, Part 61, Subpart M, Section 61.145 (a), "Standard for Demolition and Renovation Applicability," all facilities must be inspected for the presence of asbestos, including Category I and Category II nonfriable asbestos containing material (ACM), prior to commencement of a demolition or renovation. In a demolition, Paragraphs (b), "Notification Requirements", and (c), "Procedures for Asbestos Emission Control" of section 61.145 apply if the combined amount of Regulated Asbestos Containing Material (RACM) were found in amounts exceeding 260 linear feet on pipes or 160 square feet on other facility components. (RACM is defined as friable asbestos material; Category I nonfriable ACM that has become friable; Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading; or Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by forces of demolition). Section 61.150, "Standard for Waste Disposal," would also apply. Paragraph (b), "Notification Requirements," would still apply if no asbestos was present in the structure.

Similarly, in accordance with Ohio Administrative Code (OAC) 3745-20-02, "Standard for Demolition and Renovation, Facility Inspection, and Determination of Applicability," all facilities must be thoroughly inspected for the presence of asbestos, including category I and Category II nonfriable asbestos-containing material prior to commencement of a demolition or renovation. All of the requirements of OAC Rule 3745-20-03, "Standard for Notification," OAC Rule 3745-20-04, "Demolition and Renovation Procedures for Asbestos Emission Control," and OAC Rule 3745-20-05, "Standard for Asbestos Waste Handling," apply if the combined amount of RACM going to be disturbed exceeds 160 square feet on facility components, or 260 linear feet on pipes. OAC Rule 3745-20-03, "Standard for Notification," would still apply if no asbestos was present in the structure. Finally, pursuant

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to 40 CFR 61.141 and OAC Rule 3745-20-01 (B) (38), "owner or operator" means any person who owns, leases, operates, controls or supervises a facility or demolition or renovation operation.

The Federal NESHAP in 40 CFR Part 61, Subpart M, Section 61.145(b)(1) & (b)(3)(I) states, in part, that a written notice of intention to demolish must be postmarked or delivered to the Administrator at least 10 working days before any demolition activity begins. Similarly, OAC Rule 3745-20-03(A)(1) & (A)(3)(a) also states that a written notice of intention to demolish must be postmarked or delivered to the appropriate Ohio EPA office at least 10 working days before any demolition activity begins.

Once again, our office has not received results of any inspection conducted to determine if the structure(s) contained asbestos, and we have not received any notification(s) of demolition or renovation prior to the demolition activity taking place.

In view of the above facts, you are hereby notified that the demolition activity conducted on the structures located at 518 and 520 Middle Ave., Elyria, Ohio, under the ownership, operation, control or supervision of Richard's Your Outdoor Connection was at some time on or after May 2, 2007, through May 24, 2007, in violation of the following asbestos standards:

1. The federal asbestos standard in 40 CFR Part 61, Subpart M, Section 61.145(a), "Applicability."
2. The federal asbestos standard 40 CFR Part 61, Subpart M, Section 61.145(b)(1), "Notification Requirements."
3. The state asbestos standard in OAC Rule 3745-20-02, "Standards for Demolition and Renovation, Facility Inspection, and Determination of Applicability,"
4. The state asbestos standard in OAC Rule 3745-20-03(A), "Standard for Notification Prior to Demolition or Renovation."

Please submit the following information to our office within ten (10) days after receipt of this letter:

- Completion of an "Ohio Environmental Protection Agency Notification of Demolition and Renovation" form for demolition of the structures that were located at 518 Middle Ave. and 520 Middle Ave., Elyria, Ohio. (A copy of this form is enclosed.)
- Copies of any asbestos survey that may have been conducted inside the structures prior to demolition.

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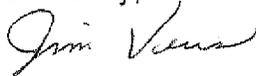
- Any clarifications, explanations or evidence on your behalf, pertaining to these violations.

A similar notice is also being sent to the property owner. You may want to contact the property owner to determine the party that will complete the "Ohio Environmental Protection Agency Notification of Demolition and Renovation" form.

Note that the acceptance by the Ohio EPA of any requested information does not constitute a waiver of the Ohio EPA's authority to seek civil penalties as provided in Section 3704.06 of the Ohio Revised Code for any past or future violations of applicable requirements. The decision to pursue or decline to pursue such penalties in this matter will be made by the Ohio EPA legal staff at a later date.

If you have any questions regarding this matter, please contact the undersigned at (330)-963-1288.

Sincerely,



Jim Veres
Ohio EPA District Representative
Division of Air Pollution Control

JV:bo

cc: Dennis Bush; NEDO; DAPC
Jennifer Kurko; NEDO; DAPC
Bob Princic; NEDO; DAPC
Tom Kalman; CO; DAPC
Lisa Holscher; USEPA; Region V