



Public Health

MAHONING-TRUMBULL AIR POLLUTION CONTROL AGENCY

Oakhill Renaissance Place
345 Oak Hill Avenue, Suite 200
Youngstown, Ohio 44502-1450

September 13, 2011

Thomas/Michael Ben
4486 Pritchard Ohltown Rd
Newton Falls, Ohio 44444

Re: Notice of Violation

Re: Renovation of 3957 E. River Rd. Newton Falls, Ohio 44444

Certified Mail: 70091680000173316837

Dear Mr. Thomas or Michael Ben:

On September 8, 2011 inspectors from the Mahoning-Trumbull Air Pollution Control Agency (M-TAPCA) observed the renovation of a commercial building located at 3957 E. River Rd. Newton Falls, Ohio 44444 (Trumbull County). At the time of inspection a large dumpster from Happy Dumpster was observed containing miscellaneous materials consisting of but not limited to shingles, wood, felt, floor tiles, dressers, etc). Debris was also observed about the perimeter of the building also.

This demolition operation was subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR, Part 61, subpart M, Asbestos and Ohio Administrative Code (OAC) 3745-20, Asbestos Emission Control Rules.

The Federal and State rules cited above regulate all facility demolitions and certain renovations. A facility is "any institutional, commercial, public, industrial or residential structure, installation, or building . . . excluding residential buildings having four or fewer dwelling units."

Briefly, the Federal Asbestos NESHAP requires that the affected facility or part of the facility where a demolition or renovation operation is to occur must be thoroughly inspected for asbestos. In Ohio, this inspection must be conducted by an individual certified as an Asbestos Hazard Evaluation Specialist. If the inspection reveals that there is more than 260 linear feet of regulated asbestos containing material (RACM) on pipes, 160 square feet of RACM on facility components, or 35 cubic feet of RACM off facility components, then all RACM must be removed from the facility by a licensed abatement contractor prior to demolition or before any activity occurs that would break up RACM or preclude access to it for subsequent removal. Specific work practice, waste handling, and disposal provisions apply when removing RACM from a facility.

Page 2
3957 W. River Rd
Thomas/Michael Ben
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These Federal and State notification requirements are not met when a local demolition or building permit is issued. Both the facility owner and the demolition contractor share the responsibility for complying with the applicable provisions of the NESHAP and OAC.

At this point, apparent violations committed in the demolition operation at 55 Stadium Dr. include:

- 1) Failure to conduct a thorough inspection prior to demolition as required by 40 CFR 61.145 (a) OAC 3745-20-02 (A).
- 2) Failure to submit prior, written notification of the intention to demolish as required by 40 CFR 61.145 (b) (1), OAC 3745-20-02 (B) , and OAC 3745-20-03 (A) (1) and postmark or deliver this notification at least 10 working days before demolition began pursuant to 40 CFR 61.145 (b) (3) (i) and OAC 3745-20-03 (A).

A first time violation of the notification requirement can result in a fine of \$10,000. For substantive violations, depending on the amount of asbestos containing material involved, first time work practice violations can result in fines of \$5,000 to \$15,000 per day.

Violations of the NESHAP and OAC can result in maximum penalties of up to \$25,000 per day and imprisonment for one year, or both. The US EPA Asbestos Demolition and Renovation Civil Penalty Policy is used to calculate monetary penalties for violations of these rules.

Be advised that this Warning Letter does not constitute a waiver of M-TAPCA's ability to pursue further enforcement action through Ohio EPA concerning this or other violations or to seek civil penalties as provided in Revised Code Chapter 3704.

It is the recommendation of this agency that the enclosed notice for demolition, any asbestos surveys that may have been done prior to demolition, and any additional information regarding the above referenced violations be submitted to this office for further review.

If you have any questions please feel free to contact me at (330) 743-3333 extension 283.

Sincerely,



Tara Cioffi
Administrator

cc: Tom Kalman, OEPA

Newton Falls Twp. Trustees, 4410 Newton Falls Bailey Road, Newton Falls, OH 44444
Newton Twp. Zoning, 4410 Newton Falls Bailey Road, Newton Falls, OH 44444