



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Central District Office

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Columbus, Ohio 43215

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Columbus, OH 43216-1049

CERTIFIED MAIL # 91 7108 2133 3932 4449 3374

October 5, 2010

Mr. Wayne Garland
Owner
Buckeye Real Estate
48 E. 15th Avenue
Columbus, OH 43201

Re: NOTICE OF VIOLATION - Failure to perform asbestos survey and submit demolition notice

Dear Mr. Garland:

This letter shall serve as follow-up to the Central District Office, Division of Air Pollution Control's (CDO) investigation of a complaint received on September 1, 2010. The complaint concerned dust resulting from renovation activities at 2000 Indianola Avenue in Columbus, Ohio.

Be advised that United States Code of Federal Regulations (CFR) 40 CFR 61.145 requires that all facilities must be thoroughly inspected for the presence of asbestos prior to commencement of a demolition or renovation. In addition, Ohio Administrative Code rule (OAC) 3745-20-02 also requires an asbestos inspection and specifies inspector license requirements.

Additional provisions of 40 CFR 61 and OAC rule 3745-20 referring to, "Notification Requirements" and, "Procedures for Asbestos Emission Control" apply if friable asbestos materials were found and in amounts exceeding 160 square feet, or 260 linear feet or 35 cubic feet. Additional sections of these rules apply to asbestos waste disposal and handling. CDO's investigation revealed that Regulated Asbestos Containing Materials are present in the facility exceeded the 160 square foot threshold. Asbestos containing materials were noted in the demolition debris.

Additionally, pursuant to 40 CFR 61.145 and OAC rule 3745-20-02(A), these rules apply to both the **owner** and **operator** of a demolition or renovation project. Owner or operator means any person who owns, leases, operates, controls, or supervises a facility or demolition or renovation operation.

1. **Finding:** Failure to conduct a thorough asbestos survey.

The owner and/or operator failed to have the facility surveyed prior to undertaking an activity that would break up; dislodge, or otherwise disturb regulated asbestos containing materials.

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



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40 CFR 61.145(a) and OAC rule 3745-20-02(A) require that prior to the commencement of demolition or renovation of an affected facility, a thorough inspection for asbestos be conducted. In addition, OAC rule 3745-20-02(A) requires that the inspection be performed by a certified asbestos hazard evaluation specialist.

Violation

Failure of not having had the above noted inspection conducted at the facility, prior to renovation, is considered a violation of 40 CFR 61.145(a) and OAC rule 3745-20-02(A) has occurred. Violation of OAC rule 3745-20-02(A) is also considered a violation of Ohio Revised Code (ORC) 3745) is also considered a violation of ORC 3704.05(G) which states:

"No person shall violate any order, rule, or determination of the director issued, adopted, or made under this chapter."

2. **Finding:** Failure to submit a notice of intent to conduct renovations at a regulated facility.

Prior to receiving the complaint CDO was unaware of any renovation activities taking place at the facility.

Violation

40 CFR Part 61.145(b)(3) and OAC rule 3745-20-03(A) state that each owner or operator shall provide notification of demolition or renovation at least ten working days before the beginning of any demolition operation, asbestos stripping or removal work, or any other activities including salvage activities and preparations that break up, dislodge, or similarly disturb asbestos material if the operation is a demolition or renovation operation subject to this rule.

By not submitting the above noted notification, prior to demolition, a violation of 40 CFR Part 61.145(b)(3) and OAC rule 3745-20-03(A) has occurred. Violation of OAC rule 3745-20-03(A) is also considered a violation of ORC 3704.05(G).

In view of the above facts, you are hereby notified that the renovation activity conducted at 2000 Indianola Avenue under your operation, control, or supervision was at sometime before or on September 1, 2010 in violation of 40 CFR Part 61, Subpart M, Section 61.145(a), "Standard for demolition and renovation" and OAC rules 3745-20-02(A), "Standards for demolition and renovation, facility inspection, and determination of applicability". This demolition activity was also in violation of 40 CFR Part 61.145(b)(1) "Notification requirements" and OAC rule 3745-20-03(A)(3).

Within thirty (30) days after receipt of this notice, we are requesting that you submit to our office the following information:

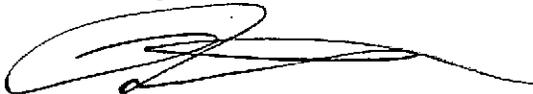
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- An asbestos survey of the facility at 2000 Indianola Avenue;
- A complete and approvable notice of renovation and asbestos abatement plan for the facility;
- Copies of all of the completed waste shipment records for demolition materials; and
- Any clarifications, responses, explanations or evidence on your behalf pertaining to the above-stated violations. Any additional information that you can supply regarding oversight of the project that may be useful in Ohio EPA's evaluation of the above noted violations.

Finally, be advised that this Notice of Violation in no way waives the right of Ohio EPA or United States Environmental Protection Agency to pursue additional enforcement action. Further communications may be directed to you regarding this violation or any additional violations that may be found.

If you have any questions regarding this matter, please contact me at (614) 995-0671.

Sincerely,



Richard Fowler
Environmental Specialist
Division of Air Pollution Control
Central District Office

c: Adam Ward, Manager, DAPC/CDO
Kelly Toth, Supervisor, Permits and Compliance, DAPC/CDO
Mark Heedham, Asbestos Program Administrator, ODH/Asbestos Program
John Paulian, DAPC/CO
Tom Buchan, DAPC/CO

