OhioEPA
State of Ohio Environmental Protection Agency

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RECEIVED
MAR 19 2008
OHIO EPA/

March 20, 2008

Certified

Mr. Joseph R. Armeni
President
The New Victorians, Inc.
455 West Third Avenue
Columbus, Ohio 4320

RE: NOTICE OF VIOLATION
MASONIC TEMPLE
1276 NORTH HIGH STREET
COLUMBUS, OHIO 43215
FRANKLIN COUNTY

Dear Mr. Armeni:

This notice is in reference to the renovation project your organization is conducting at the former Masonic Temple, located at 1276 North High Street, Columbus, Ohio. On January 24, 2008, this office received a report that asbestos containing pipe insulation had been removed and was thrown out the rear second story window of the building and onto the ground. Upon my inspection at the site on January 25, 2008, along with Mr. Jeff Gerdes, Ohio Department of Health (ODH), I observed numerous quantities of broken pieces of pipe insulation on the ground and in an excavated hole at the rear of the building; inside an unlined roll-off box; underneath steel stairs at the rear of the building; remnants of asbestos adhered to the rear outside brick wall; and pieces of pipe insulation remaining on the pipes inside the building and on the floor of the basement and second and third floors. Also, there were no asbestos warning signs or labels posted at the site. Mr. Steve Klema, Production Manager for The New Victorians, Inc., stated that In Addition Home Improvements was the contractor that removed the pipe insulation on and/or sometime between September 1, 2007 and January 18, 2008. Mr. Klema stated that an asbestos survey was never conducted prior to starting the renovation nor was an asbestos renovation notification submitted to the Ohio EPA (OEPA). Samples collected from the dumpster and from inside the building were all positive for asbestos. The quantity of asbestos containing waste (ACWM) material was determined to have originated from at least 277 linear feet of pipe as well as a yet to be determined quantity of asbestos contaminated soil.

Be advised that the asbestos abatement conducted at this site is subject to compliance with the Clean Air Act and regulations promulgated thereunder, setting forth a National Emission Standard for Asbestos (NESHAPS) codified in 40 CFR 61.140. These types of operations are also subject to Ohio Administrative Code (OAC) Rule 3745-20, "Ohio Asbestos Emission Control Rules". Pursuant to Section 112 (KK) of the Clean Air Act, the authority to implement and enforce the NESHAP has been delegated to the Ohio EPA, 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 61.145(a) and OAC 3745-20-02(A), all facilities must be inspected for the presence of asbestos prior to commencement of a demolition or renovation. Additional provisions of 40 CFR 61 and OAC 3745-20 referring to, "Notification Requirements", and, "Procedures for Asbestos Emission Control" apply if friable asbestos materials were found and stripped from facility components 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.

Additionally, pursuant to 40 CFR 61.141 and OAC Rule 3745-20-01(B)(20), 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.

VIOLATIONS:

1. 40 CFR 61.145(a) and OAC 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 by a certified asbestos hazard evaluation specialist.

   By not having had the above noted inspection conducted at the facility, a violation of 40 CFR 61.145(a) and OAC 3745-20-02(A) has occurred.

2. 40 CFR Part 61.150(b)(3)(i) and OAC 3745-20-03(A)(3)(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, a violation of 40 CFR Part 61.150(b)(3)(i) and OAC 3745-20-03(A)(3)(a) has occurred.

3. OAC 3745-20-04(A)(1) states that all regulated asbestos containing material must be removed from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the materials.

   The asbestos containing materials were not removed prior to the beginning of renovation activities. By not removing the asbestos containing materials before renovation activities began, a violation of OAC 3745-20-04(A)(1) has occurred.

4. OAC 3745-20-04(A)(6)(a) states that all regulated asbestos containing material including material that has been removed or stripped must remain adequately wet until collected and contained.

   The ACWM observed outside and inside the building was dry and not contained, thus a violation of OAC 3745-20-04(A)(6)(a) has occurred.

5. OAC 3745-20-04(A)(6)(b) states that for all regulated asbestos containing material including material that has been removed or stripped, carefully lower the materials to the ground or floor not dropping, throwing, sliding or otherwise damaging or disturbing the material.

   The ACWM that was removed was thrown outside and onto the ground from the second story window at the rear of the building. By throwing the ACWM out the second story window and onto the ground, a violation of OAC 3745-20-04(A)(6)(b) has occurred.

6. 40 CFR Part 61.145(c)(8) and OAC 3745-20-04(B)(1) states that no regulated asbestos-containing material shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this chapter unless at least one authorized representative, trained in the provisions of this rule and the means of complying with them, is present at the location of operations.

   No authorized representative was present during the removal of the asbestos containing pipe insulation. As such, a violation of 40 CFR Part 61.145(c)(8) and OAC 3745-20-04(B) has occurred.

7. OAC 3745-20-04(C) states that each owner or operator of any demolition or renovation operation, shall ensure all regulated asbestos-containing materials which have been damaged or made friable by demolition, renovation or adjacent stripping operations are repaired, encapsulated, or removed for disposal in accordance with rule 3745-20-05 of the Administrative Code, prior to the removal of emissions controls.

   On 1/18/2008, 1/22/2008, 1/23/2008, 1/25/2008 and 1/31/2008, observed by OEPA and/or ODH were friable ACWM present on the ground and in the roll-off box at the rear of the property as well as in the basement and on the second and third floors inside the building. The ACWM was dry and no emission control was observed. As such, a violation of OAC 3745-20-04(C) has occurred.

8. OAC 3745-20-05(B)(1)(c) states that each owner or operator on any demolition or renovation operation to whom this rule applies, shall discharge no visible emissions to the outside air during the collection, processing, packaging, transporting, or deposition of any asbestos containing waste material by adequately wetting the ACWM and then sealing the ACWM while wet in durable leak tight containers or wrapping that complies with paragraph (C) of this rule.

   The asbestos waste was observed to be in an open and unlined roll-off box, on the ground outside and inside on the floors and all was uncontained and dry. By not wetting and containing the ACWM as required, a violation of OAC 3745-20-05(B)(1)(c) has occurred.

9. OAC 3745-20-05(C)(2) states that asbestos containing waste materials shall be sealed in plastic bags havening a thickness of at least 0.006 inch (six-mills). A second clean, leak tight plastic bag having a thickness of at least 0.006 inch (six-mills) shall fully contain the first bag.

   The ACWM that was observed was not contained or sealed as required. As such, a violation of OAC 3745-20-05(C)(2) has occurred.

In view of the above facts, you are hereby notified that the renovation activity conducted at the former Masonic Temple, 1276 North High Street, Columbus, Ohio, under the operation, control or supervision of **The New Victorians, Inc.** was at sometime on or after September 1, 2007, in substantive violation of 40 CFR Part 61, Subpart M, Section 61.145(a), "Standard for Demolition and Renovation Applicability" and OAC Rules 3745-20-02(A), "Standards for Demolition and Renovation, Facility Inspection, and Determination of Applicability". This renovation activity was also in substantive violation of OAC Rules 3745-20-03(A)(a), "Standard for Notification Prior to Demolition or Renovation"; OAC Rules 3745-20-04(A)(1), 3745-20-04(A)(6)(a), 3745-20-04(A)(6)(b), 3745-20-04(B)(1) and 3745-20-04(C), "Demolition and Renovation Procedures for Asbestos Emission Control"; and OAC Rules 3745-20-05(B)(1)(c) and 3745-20-05(C)(2), "Standard for Asbestos Waste Handling".

Within ten (10) days after receipt of this notice, we are requesting that you submit to our office the following information:

- An update regarding your company's plans to comply with the requirements of 40 CFR Part 61 and OAC Rule 3745-20.

- A summary of the renovation activities already completed including the type and quantity of material already removed from the building/site.

- Copies of all the completed waste shipment records for asbestos contaminated materials.

- The results of a complete asbestos survey of the building.

- 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 the Ohio EPA or U.S. EPA 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) 644-3607.

Sincerely,

Tom Buchan

Tom Buchan
Asbestos NESHAP Coordinator
Ohio EPA/Division of Air Pollution Control

TB

cc: Paul Koval, CO, DAPC
Tom Kalman, CO, DAPC
Richard Fowler, CDO, DAPC
Jeff Gerdes, ODH
Lisa Holscher, USEPA, Region V