

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Family Video
1022 E. Adams St.
Springfield, IL 62703

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Director's Final Findings
and Order

OHIO E.P.A.
DEC - 5 2003
DIRECTOR'S JOURNAL

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Order ("Order") are issued to Family Video ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

This Order shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the Project Site, as hereinafter defined, shall in any way alter Respondent's obligations under this Order.

III. DEFINITIONS

Unless otherwise stated, all terms used in this Order shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS OF FACT

The Director of Ohio EPA has determined the following findings:

1. Respondent owned property located at 143 N. Main Street in Bellefontaine, Ohio, during the period which included February 8, 2002 and is an owner as the term is defined in the Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(20).

2. Jack Johns General Construction was hired by Respondent to demolish an existing gasoline dispensing facility ("Facility") at the above-mentioned location to make way for construction of a Family Video store.

3. On February 1, 2002, an "Application for Zoning/Building Permit" application was filed with, and accepted by, the Bellefontaine City Engineer's office. The permit number was 2451. The permit indicated that the above Facility would be torn down, and a Family Video store built in its place.

4. On February 7, 2002, Ohio EPA's Southwest District Office ("SWDO") received an inquiry as to the legality of demolition activity occurring at 143 N. Main Street in Bellefontaine.

5. On February 8, 2002, SWDO inspected the property at 143 N. Main Street in Bellefontaine, where demolition of the Facility had recently occurred. The purpose of the inspection was to determine compliance with Ohio Administrative Code ("OAC") chapter 3745-20, pertaining to asbestos emission control standards and procedures. No evidence of regulated asbestos containing material was found on site at the time of the inspection.

6. As a result of the February 8, 2002, inspection, SWDO determined that an "Ohio EPA Notification of Demolition and Renovation" form had not been filed with SWDO prior to demolition activity commencement. Pursuant to OAC rule 3745-20-02(A)(2) if the amount of friable asbestos materials in a facility being demolished is less than a stated amount is subject to the requirements of OAC rule 3745-20-03. Each owner to whom OAC rule 3745-20-03(A) applies is required to file a notification which is accomplished with the submittal of the "Ohio EPA Notification of Demolition and Renovation" form to Ohio EPA. Failure to provide Ohio EPA with notification of a demolition is a violation of OAC rule 3745-20-03(A).

7. On February 19, 2002, SWDO issued a Notice of Violation to Jack Johns General Construction for failure to notify Ohio EPA of the demolition prior to the demolition's beginning.

8. Respondent failed to provide Ohio EPA with the required notification for demolition activities that occurred at the Facility in violation of OAC Chapter 3745-20-03. on their behalf.

9. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Order and the benefits to the people of the State to be derived from such compliance.

V. ORDER

The Director hereby issues the following Order:

Pursuant to R.C. 3704.06, Respondent is assessed a civil penalty in the amount of eight thousand five hundred dollars (\$8,500) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days after the effective date of this Order, Respondent shall pay to Ohio EPA the amount of eight thousand five hundred dollars (\$8,500) in total penalties. Payment shall be made by official check made payable to "Treasurer, State of Ohio" and sent to Brenda Case or her successor at:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of the above required check shall be sent to:

James A. Orlemann, Manager
Division of Air Pollution Control
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

VI. TERMINATION

Respondent's obligations under this Order shall terminate upon Ohio EPA's receipt of the official check required by Section V of this Order.

VII. OTHER CLAIMS

Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to this Order, for any liability arising from, or related to, this Order.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to this Order shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. This Order does not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

This Order may be modified by agreement of the Parties. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of this Order

XI. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in this Order, Respondent consents to the issuance of this Order and agrees to comply with this Order. Compliance with this Order shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of this Order, and the Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of this Order either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if this Order is appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with this Order notwithstanding such appeal and intervention unless this Order is stayed, vacated or modified.

XII. EFFECTIVE DATE

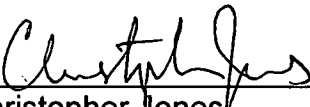
The effective date of this Order is the date it is entered into the Ohio EPA Director's journal.

XIII. SIGNATORY AUTHORITY

Each undersigned representative of a party to this Order certifies that he or she is fully authorized to enter into this Order and to legally bind such party to this Order.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Christopher Jones
Director

12-2-03

Date

IT IS SO AGREED:

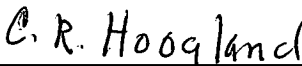
Family Video



Signature

Nov. 26, 03

Date



Printed or Typed Name

CEO

Title