

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Katana Corp. d.b.a.

Lightning Demolition and Excavating :

3300 E.87th St. :

Cleveland Ohio 44103 :

**Director's Findings
and Orders**

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Katana Corp. d.b.a. Lightning Demolition and Excavating ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§§ 3704.03, 3710.02(B)(1) and 3745.01

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704, ORC Chapter 3710 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent is the operator of the demolition site located at 6509 Hough Avenue, Cleveland, Cuyahoga County, Ohio (Site). This demolition site is a Facility as defined in the Ohio Administrative Code ("OAC") 3745-20-(B)(21). Respondent was hired by the owner, Neighborhood Solutions Inc. to demolish this Facility.
2. Respondent is an "owner/operator" as the term is defined in OAC Rule 3745-20-01(B)(42) which means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls or supervises the demolition or renovation or both.

3. OAC Rule 3745-20-01(B)(45) defines "Regulated asbestos-containing material" ("RACM") to include the following: Friable asbestos material; Category I nonfriable asbestos-containing material that has become friable; Category I nonfriable asbestos-containing material that will be or has been subjected to sanding, grinding, cutting, or abrading; or Category II nonfriable asbestos-containing material that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this chapter.
4. OAC Rule 3745-20-04(A)(1) requires that each owner or operator of a demolition or renovation operation to whom this rule applies shall remove all regulated asbestos-containing material from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the materials or preclude access to the materials for subsequent removal.
5. OAC Rule 3745-20-04(D) requires that for emergency demolition operations, adequately wet the portion of the facility that contains regulated asbestos-containing material during the wrecking operation and ensure that the materials remain adequately wet until collected for disposal in accordance with Rule 3745-20-05 of the Administrative Code.
6. OAC Rule 3745-20-03(A) requires written notice of intention to demolish or renovate a facility via submittal of an Ohio Environmental Protection Agency Notification of Demolition and Renovation Form (notification). Submittal of the notification is required at least 10 working days prior to commencement of the demolition and/or renovation operation.
7. OAC Rule 3745-20-03(C) requires in addition to the information required in paragraph (A)(4) of this rule, each owner or operator of an emergency demolition shall provide the name, title, and authority of the state or local government authority who has ordered the demolition, the date that the order was issued, and the date on which the demolition is ordered to begin. A copy of the order shall be attached to the notification.
8. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704. ORC §3710.05(A) states, "Except as otherwise provided in this chapter, no person shall engage in any asbestos hazardous abatement activities in this state unless licensed or certified pursuant to this chapter." ORC §3710.02(B)(1) states that the director shall "Administer and enforce this chapter and the rules adopted pursuant thereto." ORC Chapters 3745-20 and 3745-22 were adopted by the Director pursuant to ORC Chapter 3704 and ORC Chapter 3710.
9. On January 27, 2022, Cleveland Division of Air Quality (CDAQ), was made aware by way of Ohio EPA, Central Office (CO), that the Notification of Demolition and Renovation/Abatement ID179781 for the Site, was revised to be canceled.

10. On January 28, 2022 CDAQ performed an inspection at the Site and found the facility had been demolished leaving demolition debris including materials appearing to be asbestos containing material (ACM) noted in the asbestos survey. Also at the site were two lined dumpsters and an excavator labeled with Lightning Demolition's name.
11. On February 1, 2022, CDAQ performed a re-inspection of the Site. CDAQ observed demolition debris in the same state as the January 28 inspection. The debris was not adequately wet and the dumpsters and excavator remained on site.
12. On February 9, 2022, CO received a notification revision showing that Respondent ended its involvement in the demolition project and would not be involved in cleaning up the RACM demolition debris on the Site.
13. On February 10, 2022, CDAQ sent Respondent a Notice of Violation (NOV) for failure to remove all RACM from a facility prior to demolition, for failure to adequately wet RACM, and for failure to submit a completed emergency demolition notification including required orders.
14. The property operator hired a licensed abatement company to properly remove and dispose of the RACM generated from the improper demolition caused by Respondent. By March 18, 2022, the RACM had been removed and properly disposed of at a licensed facility. On April 20, 2022, CDAQ conducted a follow-up inspection and verified that all the materials had been removed.

V. ORDERS

The Director hereby issues the following Orders:

Respondent shall pay the amount of eight thousand dollars (\$8,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for eight thousand dollars (\$8,000). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying Respondent, to:

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

VI. TERMINATION

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

VII. OTHER CLAIMS

Nothing in these Orders 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 these Orders, for any liability arising from, or related to the operation by Respondent.

VIII. OTHER APPLICABLE LAWS

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

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Jim Kavalec, Assistant Environmental Administrator

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

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

XII. 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 these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders 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 these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are 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 these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

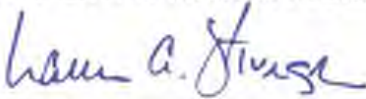
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

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

ORDERED AND AGREED:

Ohio Environmental Protection Agency



Laurie A. Stevenson
Director

8/31/2022

Date

IT IS AGREED:

Katana Corp. d.b.a.
Lightning Demolition & Excavating

 Pres.

Date

8-25-22