



# ENFORCEMENT ORDER

## Allegheny County Health Department

### Air Quality Program

**301 39th Street, Bldg. # 7, Pittsburgh, PA 15201**

**Phone: (412) 578-8103**

Address of Alleged Violator <b>6027 Verona Rd. Verona 15147</b>		Parcel Number: <b>0366-D-00252-0000-00</b>	
Name of Alleged Violator <b>Davis Demolition &amp; Excavating, LLC</b>			
Address of Alleged Violator <b>113 Heartland Drive, Butler, PA 16001</b>			
Contact Person Adam Davis	Title Owner	Phone Number 724-679-8357	Email adavis@davisdemo.com

#### PART 1: DESCRIPTION OF INSPECTION(S)

The property located at 6027 Verona Rd. is owned by the Municipality of Penn Hills and was demolished as part of a municipally funded blight remediation project. Davis Demolition & Excavating is the operator who demolished the structure.

On January 20, 2022, the Allegheny County Health Department, hereinafter ACHD, received an email from Adam Davis of Davis Demolition that included links to an asbestos demolition notification form and an asbestos survey report. On January 21, 2022, ACHD replied they could not access the files via the links in the email and requested Davis Demolition to re-send the reports as attachments. On February 9, 2022, Davis Demolition replied via email with the asbestos demolition notification form and an asbestos survey report. The asbestos survey report stated that a through survey could not be completed on the structure at 6027 Verona Road due to poor physical conditions and safety concerns. The survey also stated, “It is recommended that the structure be demolished in accordance with NESHAP Regulations and that the debris be disposed of at a facility that accepts asbestos waste.” Within the notification, Davis Demolition marked that no asbestos was present and “Condition of building too poor to get samples.”

On February 14, 2022, ACHD emailed Davis Demolition stating the asbestos survey was unable to be completed on 6027 Verona Road and the entire structure must be treated as asbestos containing material. The structure would also require an asbestos abatement permit application and fee to be submitted to ACHD, and an Allegheny County Licensed Asbestos Abatement Contractor must be present for the demolition. On February 21, 2022, Davis Demolition sent an updated notification to ACHD. ACHD inspector Elizabeth Godusky reported on February 18, 2022, that 6027 Verona Road had been demolished. An asbestos abatement permit application and fee were not received by ACHD. Davis Demolition was not an Allegheny County Licensed Asbestos Abatement Contractor between January 1, 2022 through February 21, 2022. Davis Demolition did not apply for an Allegheny County Asbestos Abatement Contractor License until August 18, 2022—Davis Demolition received the License on September 2, 2022.

The demolition of 6027 Verona Road was municipally funded and, therefore, had to adhere to Article XXI §§ 2105.60 – 2105.63, 40 C.F.R. § 61.145(b). The structure was required to be treated as asbestos containing material, but Davis Demolition did not treat it as such. The demolition of 6027 Verona Road required an Allegheny County Licensed Asbestos Abatement Contractor to oversee the demolition and apply for an ACHD Asbestos abatement permit. An Allegheny County Licensed Asbestos Abatement Contractor did not oversee the abatement of 6027 Verona Road and an Asbestos Abatement permit and fee were not received by ACHD.

Did the individual/company cooperate with ACHD personnel? If not, explain:	Yes
Inspection Date(s)	Inspector Name(s)

**PART 2: YOU ARE IN VIOLATION OF THE FOLLOWING REGULATION(s):**

	Regulation Section <b>Article XXI §§          2105.60, 2105.62.a-b;          40 C.F.R. §          61.145(b):</b>	Regulation Requirement <b>Performing asbestos abatement without an ACHD issued Allegheny County          Asbestos Abatement Contractor's License</b>
1	Description of Violation <b>A thorough asbestos survey was not able to be completed at 6027 Verona Road. All building materials were to be treated as asbestos containing and the demolition to be overseen by an asbestos abatement contractor. Davis Demolition performed the demolition of 6027 Verona Road and was not an Allegheny County licensed asbestos abatement contractor at the time of the demolition. The demolition was not overseen by an Allegheny County licensed asbestos abatement contractor.</b>	
	What You Must Do to Correct the Violation <b>Do not perform asbestos abatement without an Allegheny County Asbestos Abatement Contractor License.          An Allegheny County Asbestos Abatement Contractor License was issued by Allegheny County Health Department to Davis Demolition LLC on 09/02/2022. The license was renewed on 12/19/2022 and is valid through 12/31/2023.</b>	
	Regulation Section <b>Article XXI §          2105.62.f,</b>	Regulation Requirement <b>Demolition of regulated structures requires a demolition notification 10 days prior to the start of demolition with asbestos survey attached. Where asbestos is present in quantities greater than 160 sq feet, or where no survey could be conducted, a permit is required.</b>
2	Description of Violation <b>Davis Demolition completed demolition prior to the Department receiving a complete demolition notification. Davis Demolition never submitted a permit application.</b>	
	What You Must Do to Correct the Violation <b>Do not demolish regulated structures without (a) submitting a complete demolition notification and permit application and (b) receiving a permit.</b>	
	Regulation Section <b>Article XXI § 2105.63</b>	Regulation Requirement <b>Standard practices for asbestos abatement are required</b>
3	Description of Violation <b>Standard work practices were not used. No asbestos supervisor was on site. No air monitoring took place during work. No lined dumpsters were used. Material was not disposed of as asbestos waste.</b>	
	What You Must Do to Correct the Violation <b>Do not perform asbestos abatement without utilizing standard practices for asbestos abatement.</b>	

**PART 3: YOU ARE HEREBY ORDERED AS FOLLOWS:**

- Immediately stop all work and/or cease operations at the following location(s):  
\_\_\_\_\_
- You are hereby Ordered to correct the violations(s) listed in Part 2 within \_\_\_\_\_ days of the service of this Enforcement Order.
- You are hereby Ordered to comply with the following requirements within 30 days of the service of this Enforcement Order:  
Submit an asbestos abatement permit application and applicable fee of \$350.00.

**The Order(s) in this Part is enforceable upon issuance and any appeal shall not act as a stay.** The Order(s) shall remain in effect until you are notified in writing by the Department. Please contact the ACHD Air Quality Program at (412) 578-8103 to arrange for a reinspection or to request that the Order(s) be rescinded.

**Please be advised that failure to comply with this Order within the times specified herein is a violation of Article XXI giving rise to the remedies provided by Article XXI § 2109.02 including civil penalties of up to \$25,000 per violation per day.**

**PART 4: CIVIL PENALTY**

**For the violations listed in Part 2, you are hereby assessed a civil penalty of \$ 3,465.00.** The determination of the civil penalty is attached as **Exhibit No. 1** and is incorporated as part of this Enforcement Order.

Please be aware that if the Department did not assess a civil penalty, the Department may issue a subsequent enforcement order in which a civil penalty is assessed.

You shall pay the civil penalty amount within thirty (30) days of receipt of this Order. Payment shall be made by corporate or certified check, or the like, made payable to the "Allegheny County Clean Air Fund", and sent to Air Quality Program Manager, Allegheny County Health Department, 301 39th Street, Bldg. #7, Pittsburgh, PA 15201.

**PART 5: REQUEST FOR ADMINISTRATIVE HEARING**

Pursuant to Article XI § 1104.A (“Hearings and Appeals”), of the Allegheny County Health Department Rules and Regulations, and Article XXI §§ 2109.03.d. and 2109.06.a, you are notified that if you are aggrieved by this Order, a Notice of Appeal shall be filed no later than thirty (30) days after receipt of written notice or issuance of this Order. Such a Notice of Appeal shall be filed in the Office of the Director at 542 Fourth Avenue, Pittsburgh, PA 15219.

This Order is enforceable upon issuance and any appeal of this Order shall not act as a stay unless the Director of Hearing Officer of the ACHD so orders. In the absence of a timely appeal, the terms of this Order shall become final.

Please be aware that if you wish to appeal this Order and a civil penalty has been assessed under Part 4, you are required within 30 days of receipt of this Order to either forward the penalty amount to the ACHD for placement in an escrow account or post an appeal bond to the ACHD in the amount of the penalty. If it is your position that you are unable to prepay the penalty or post the bond, then, when you file your appeal, you must claim an inability to pay. Failure to timely prepay the penalty, post a bond, or claim an inability to pay will result in a waiver of any rights to appeal this Order. Please review Article XXI § 2109.06.a.2-3 for the specific requirements for prepaying the penalty, posting a bond, or claiming an inability to pay.

A copy of Article XXI and Article XI may be found at <https://www.alleghenycounty.us/Health-Department/Health-Department-Regulations.aspx>.



\_\_\_\_\_  
Air Quality Program Manager

10/4/2023

Date

## EXHIBIT NO. 1

### CIVIL PENALTY DETERMINATION AND CALCULATION

**PURPOSE:** The primary purpose for assessing civil penalties is to deter future violations not only at the specific facilities that are involved in the enforcement actions taken by the Department, but also at all the facilities within Allegheny County that are subject to the Article XXI regulations. In order to achieve the goal of deterrence, a civil penalty should remove any significant economic benefit resulting from noncompliance and include an amount beyond recovery of the economic benefit to reflect the seriousness of the violation.

**CIVIL PENALTY FACTORS:** The ACHD has determined the civil penalty to be in accordance with Article XXI, § 2109.06.b, reflecting relevant factors including, but not limited to: the nature, severity and frequency of the alleged violations; the maximum amount of civil and criminal penalties authorized by law; the willfulness of such violations; the impact of such violations on the public and the environment; the actions taken by the violator to minimize such violations and to prevent future violations; and the violator's compliance history.

**CIVIL PENALTY FORMULA:** The following calculation is used to assess the civil penalty:

$$\text{Civil Penalty} = (\text{Gravity Based Component} \times \text{Adjustment Factor}) + \text{Economic Benefit} + \text{Cost to the Department} + \text{Additional Deterrent Penalty}$$

**Gravity Based Component:** A gravity based component reflects the potential harm that the violation may have on the public or environment and the severity of the violation.

**Adjustment Factor:** The gravity based component may be adjusted for factors and circumstances unique to the violator. These adjustment factors include the violator's degree of cooperation with the ACHD during the investigation, the compliance history of the violator, the degree of willfulness that violator exhibited with regard to the violation, the size of the violator, and whether the violator is a Title V source or a Synthetic Minor source.

**Economic Benefit:** This component is a measure of the economic benefit gained by the violator as a result of noncompliance with the regulatory, statutory, or permit requirements.

**Cost to the Department:** Extra monetary costs for the investigation and preparation of the case, such as source sampling costs and laboratory costs, may be identified and added to the adjusted civil penalty.

**Additional Deterrent Penalty:** An additional deterrent penalty may be assessed if justified by the circumstances of the case.

## CIVIL PENALTY CALCULATION

### A. Gravity Based Component

Violation	Gravity Based Penalty	Violation Days	Total Gravity Penalty
Article XXI § 2105.60: Performing asbestos work without an asbestos abatement contractor's license	\$2,500	1	\$2,500
Article XXI § 2105.62.f: Failure to submit asbestos notification/permit application prior to demolition of a structure without a survey	\$1,300	1	\$1,300
Article XXI § 2105.62: Failure to use standard work practices for asbestos abatement	\$2,500	1	\$2,500
	\$		\$
<b>Gravity Component Total</b>			<b>\$6,500</b>

B. Adjustment Factors	Factor	Adjustment Amount
Degree of Cooperation:		\$
Compliance History:		\$
Degree of Willfulness:		\$
Size of Violator: 1-10 employees	-0.45	-\$2,835
Title V source or a Synthetic Minor source:		\$
<b>Adjustment Factors Total</b>		<b>-\$2,835</b>

### C. Other Adjustments

Economic Benefit:	\$	
Cost to the Department:	\$	
Additional Deterrent Penalty:	\$	
<b>Other Adjustments Total</b>		<b>\$</b>
<b>TOTAL CIVIL PENALTY</b>		<b>\$3,465</b>