



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 6296 Steubenville Pike, Pittsburgh, PA 15205			
Name of Alleged Violator Kuhns Group Inc. Mosites High Tower Company			
Address of Alleged Violator 2495 US 42 South, Spring Valley, Ohio 45370 400 Mosites Way STE 100, Pittsburgh, PA 15205-1323			
Contact Person Pete Monnig	Title Site Supervisor	Phone Number 937-608-0136	Email pete@kuhnsgroup.com

PART 1: DESCRIPTION OF INSPECTION(S)

On March 17, 2021, a representative of Allegheny County Health Department (ACHD) witnessed renovation activities at a commercial structure at 6296 Steubenville Pike, Pittsburgh, PA 15205. ACHD was onsite and requested the structure's asbestos survey from the site supervisor Pete Monnig. The site supervisor stated an asbestos survey was not conducted. ACHD issued an Administrative Field Order regarding the renovation of the facility at 6296 Steubenville Pike, stopping renovation activity and requiring air samples and dust samples to determine if asbestos containing building materials were disturbed during the renovation.

On March 23, 2021, Kuhns Group representatives provided the required air and dust sampling results of the structure at 6288 Steubenville Pike. The results indicated that that no asbestos fibers were found in the air or dust in the structure that was being renovated. According to the Allegheny County Real Estate Portal, Mosites High Tower Company is the owner of the property.

Kuhns Group and Mosites High Tower Company failed to perform a through asbestos survey prior to the start of commercial renovation at 6296 Steubenville Pike, Pittsburgh, PA 15205

Did the individual/company cooperate with ACHD personnel? If not, explain:	Yes
Inspection Date(s) 3/17/2021	Inspector Name(s) Cali Feeney

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

	Regulation Section	Regulation Requirement
	§2105.62.b 40 CFR §61.145(b)	Failure to perform an asbestos survey prior to demolition or renovation of a commercial structure. No asbestos survey/report is available upon request during renovations.
1	Description of Violation During an inspection on March 17, 2021, an asbestos survey was requested from facility representatives. Facility was undergoing renovations and contractors did not provide an asbestos survey to ACHD. Commercial renovations occurred with no asbestos survey available. Air and Dust sampling did not indicate the presence of asbestos.	
	What You Must Do to Correct the Violation Violation has been corrected. Ensure a through asbestos survey is completed prior to future commercial renovations.	

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 _____ days of the service of this Enforcement Order:**

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 \$ 2,250.00. 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, 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 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. Failure to forward the money or the appeal bond at the time of the appeal shall result in a waiver of all legal rights to contest the violation or the amount of the civil penalty unless you allege financial inability to prepay the penalty or to post the appeal bond. If you allege financial inability to prepay or post, then you have the burden to prove it. Please review the specific requirements for prepaying the penalty or posting the appeal bond found in Article XXI § 2109.06.a.2-3.

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

12/22/2023
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 violators 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
Failure to perform asbestos survey prior to renovation (§2105.62.b.5)	\$2,500.00	1	\$2,500.00
	\$		\$
	\$		\$
	\$		\$
Gravity Component Total			\$2,500.00

B. Adjustment Factors	Factor	Adjustment Amount
Degree of Cooperation: Cooperated with ACHD	0	\$0
Compliance History:	0	\$0
Degree of Willfulness:	0	\$0
Size of Violator: Value of Property	-0.1	-\$250.00
Title V source or a Synthetic Minor source:	0	\$0
Adjustment Factors Total		-\$250.00

C. Other Adjustments		
Economic Benefit:	\$	
Cost to the Department:	\$	
Additional Deterrent Penalty:	\$	
Other Adjustments Total		\$

TOTAL CIVIL PENALTY	\$2,250.00
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