

**ALLEGHENY COUNTY HEALTH DEPARTMENT
ADMINISTRATIVE HEARINGS**

BRUCE FOX AND PATRICIA FOX,

Appellants,

v.

ALLEGHENY COUNTY HEALTH
DEPARTMENT,

Appellee.

Violations of Article VIII (“Solid Waste and Recycling Management”) and Article XXI (“Air Pollution Control”) at property:

711 Worthington Ave
Clairton, PA 15025

MOTION TO DISMISS APPELLANTS’ APPEAL

The Allegheny County Health Department, by its attorneys, files the within Motion to Dismiss Appellants’ Appeal, and, in support thereof, states as follows:

1. On October 27, 2017, the Allegheny County Health Department (hereinafter “ACHD” or “Department”) issued an Administrative Order against Bruce and Patricia Fox relating to a mulch fire that occurred on their property. A copy of the October 27, 2017 Order is attached hereto as Exhibit “A.”

2. The October 27, 2017 Administrative Order sets forth violations of the ACHD’s Article VIII (“Solid Waste and Recycling Management”) and Article XXI (“Air Pollution Control”) regulations and violations of an Order issued by the ACHD on July 19, 2017. The Administrative Order also assessed separate civil penalties against Bruce and Patricia Fox for the violations of the Article VIII and Article XXI.

3. On November 13, 2017, counsel for Bruce and Patricia Fox filed an Appeal of the October 27, 2017 Administrative Order with the Director. A copy of Appellants’ Appeal is attached hereto as Exhibit “B.”

4. Article XI (“Hearings and Appeals”), § 1104.B, of the Department’s Rules and Regulations requires that a Notice of Appeal “shall set forth with particularity the manner in which the Appellant is aggrieved by the action of the Department, the extent to which the Appellant has a direct interest in the action and the grounds for his or her appeal.”

5. In their Appeal, Appellants fail to provide any grounds for their appeal of the violations and civil penalties set forth in the October 27, 2017 Order. Appellants’ Appeal only states:

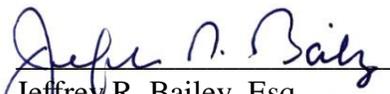
Kindly consider this as my Appeal to the Administrative Order dated October 27, 2017. I have attached a copy of this order for your reference. Should you have any questions or comments please contact my office.

The above language is clearly inadequate to meet the requirements of Article XI, § 1104.B.

6. Accordingly, due to Appellants’ failure to comply with Article XI, § 1104.B, Appellants’ Appeal must be dismissed.

Dated: November 15, 2017

Respectfully submitted,


Jeffrey R. Bailey, Esq.
Pa. I.D. No. 203023
ACHD Assistant Solicitor

Michael A. Parker, Esq.
Pa. I.D. No. 90979
ACHD Solicitor

Allegheny County Health Department
Air Quality Program
301 39th Street, Bldg. No. 7
Pittsburgh, PA 15201-1891
Phone: (412) 578-8102
Fax: (412) 578-8144

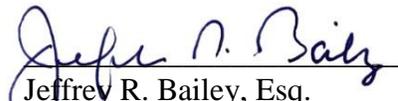
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Allegheny County Health Department's Motion to Dismiss Appellants' Appeal has been served upon the following via electronic mail this 15th day of November, 2017:

Max Slater, Esq.
Administrative Hearing Officer
Allegheny County Health Department
542 4th Avenue
Pittsburgh, PA 15219
Max.Slater@AlleghenyCounty.US

D. Scott Lautner, Esq.
68 Old Clairton Rd.
Pittsburgh, PA 15236
Scott@lautnerlaw.com

(Counsel for Appellants, Bruce Fox and Patricia Fox)


Jeffrey R. Bailey, Esq.
Pa. I.D. No. 203023
ACHD Assistant Solicitor