

ALLEGHENY COUNTY HEALTH DEPARTMENT  
ADMINISTRATIVE HEARING

BUNTING GRAPHICS, INC.,	:	In Re: Bunting Graphics, Inc.
	:	Docket no. ACHD-19-032
Appellant,	:	
	:	
v.	:	<u>Copies Sent To:</u>
	:	<i>Counsel for Appellant:</i>
	:	Avrum Levicoff, Esq.
ALLEGHENY COUNTY HEALTH	:	THE LEVICOFF LAW FIRM, P.C.
DEPARTMENT,	:	4 PPG Place, Suite 200
	:	Pittsburgh, PA 15222
Appellee.	:	
	:	
	:	<i>Counsel for Appellee:</i>
	:	Jason K. Willis, Esq.
	:	301 39 <sup>th</sup> Street, Building 7
	:	Pittsburgh, PA 15201

**ORDER**

AND NOW, this 19<sup>th</sup> day of September, 2019, it is hereby ORDERED that the Allegheny County Health Department's Motion to Dismiss, dated August 19, 2019, is **DENIED**, for the following reasons:

- 1) On Friday, July 12, 2019, the Allegheny County Health Department ("ACHD") emailed an Enforcement Order to Joshua Bunting, the President of Bunting Graphics, Inc. ("Bunting").
- 2) Also on July 12, 2019, the ACHD transmitted the Enforcement Order to Bunting by USPS certified mail.
- 3) Bunting received the Enforcement Order by USPS certified mail on Thursday, July 18, 2019. (*See Appellant's Response, Ex. B.*)
- 4) Bunting filed its appeal on August 16, 2019.
- 5) Under ACHD Rules and Regulations, Article XI § 1104(A), a "Notice of Appeal shall be filed no later than thirty (30) days after receipt of written notice or issuance of the action by which the Appellant is aggrieved."

- 6) ACHD Rules and Regulations, Article XXI (Air Pollution) § 2109.03(c) specifies that enforcement orders shall be served on parties in one of three ways:
1. Personally handing them a copy;
  2. Serving them in the manner provided by the Pennsylvania Rules of Civil Procedure for the service of a complaint in a civil action; or
  3. Mailing a copy to them at their last known address by registered or certified mail, return receipt requested.
- 7) Here, the ACHD sent the Enforcement Order to Bunting by USPS certified mail.
- 8) ACHD Rules and Regulations, Article XI, § 1112 states, “Where notice is given by United States mail, the time of service of such notice shall be the date of receipt.”
- 9) Here, Bunting received the Enforcement Order by United States mail on July 18, 2019. Because Bunting filed its appeal on August 16, 2019, the appeal was filed within the 30-day window provided for under Article XI, § 1104(A).
- 10) Therefore, Bunting’s appeal is timely, and the ACHD’s Motion to Dismiss, dated August 19, 2019 is **DENIED**.

  
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Max Slater  
Administrative Hearing Officer  
Allegheny County Health Department

Dated: September 19, 2019