BEFORE THE ILLINOIS POLLUTION CONTROL BOA

ADMINISTRATIVE CITATION

(IEPA NO. 78-12-AC)

CMH HOMES INC. AND DAVID R. MOSER,

Respondents.

ILLINOIS ENVIRONMENTAL

PROTECTION AGENCY,

Complainant,

V.

NOTICE OF FILING

To: Illinois Environmental Protection Agency Division of Legal Counsel 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62794-9276

David R. Moser 13546 North Harmony Lane Opdyke, IL 62872

PLEASE TAKE NOTICE that on May 9, 2012, the undersigned by third party carrier, Federal Express, mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled PETITION FOR REVIEW AND AFFIDAVIT.

Respectfully submitt

Jeffrey G. Howard, Attorney for CMH Homes,

JEFFREY G. HOWARD ARDC #6203080 HOWARD, LEGGANS, PIERCY & HOWARD LLP 1008 MAIN, P.O. BOX 1810 MT. VERNON, IL 62864 618/242-6594



Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD 1 0 2012 STATE OF ILLINOIS

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	
Complainant,) AC 12-3	9
v.) (IEPA NO. 78-12-AC))
CMH HOMES INC. AND DAVID R. MOSER,)	
Respondents.)	

PETITION FOR REVIEW

NOW COMES the Respondent, CMH Homes Inc., through its attorney, Jeffrey G. Howard, Howard, Leggans, Piercy & Howard LLP, and, for its Petition for Review, states as follows:

- 1. That on or about April 4, 2012, the Illinois Environmental Protection

 Agency filed an Administrative Citation against Respondents, CMH Homes Inc., and

 David R. Moser.
- 2. That said Citation alleged that the Respondents were in violation of the Illinois Environmental Protection Act in that they:
 - Caused or allowed the open dumping of waste in a manner resulting
 in litter;
 - b. Caused or allowed the open dumping of waste in a manner resulting in deposition of general construction or demolition debris: or clean construction or demolition debris;

3. That Respondent CMH Homes, Inc. did not cause or allow the alleged

violations to take place on the property.

4. That said Respondent, by and through Alan Xanders, its authorized

representative, strictly advised David R. Moser (the current operator) that at no time was

he to engage in any bulldozing operations upon the property.

5. Any conditions complained of in the Administrative Citation are believed

to be the result of bulldozing activities by David R. Moser upon the property, which

activities were directly contrary to the explicit direction given to David R. Moser by CMH

Homes, Inc.

WHEREFORE, the Respondent, CMH Homes, Inc.:

A. Requests that the Illinois Pollution Control Board grant its Petition for

Review; and,

B. Find that the Respondent is no longer in violation of the Illinois

Environmental Protection Act and, therefore, is not subject to any civil penalty.

Respectfully submitted

Jeffrey G. Howard, Attorney for CMH Homes,

Inc.

JEFFREY G. HOWARD

ARDC #6203080

HOWARD, LEGGANS, PIERCY & HOWARD LLP

1008 MAIN, P.O. BOX 1810

MT. VERNON, IL 62864

618/242-6594

STATE OF ILLINOIS)
) SS
COUNTY OF JEFFERSON)

VERIFICATION

Under the penalties as provided by law pursuant to Section 1/109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

CMH HOMES, II

Alan Xanders, Authorized Representative

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

STATE	OF ILLI	NOIS
Pollution	Control	Board

			Pollution Control Boar
ILLINOIS ENVIRONMENTAI PROTECTION AGENCY,	Ĺ)	
Complainant,)	AC 12-39
v.)	(IEPA NO. 78-12-AC)
CMH HOMES INC. AND DAY	VID R. MOSER,)	
Respondents.)	
	<u>AFFIDAVIT</u>		
STATE OF ILLINOIS)		
COUNTY OF JEFFERSON) SS)		

- I, Alan Xanders, having been first duly sworn, do hereby state as follows:
- 1. That I am an employee and authorized representative of CMH Homes Inc. for the purposes of making this Affidavit, which corporation is named as Respondent in the Administrative Citation filed by the Illinois Environmental Protection Agency on or about April 4, 2012.
- 2. That Respondent did not cause or allow the alleged violations to take place on the property. It is believed that David R. Moser undertook bulldozing operations on the property, which activities were without the knowledge or consent of CMH Homes Inc.
 - 3. That David R. Moser was specifically advised by the undersigned on several

occasions that at no time was he to engage in any bulldozing operations on the property.

4. Any bulldozing operations undertaken by David R. Moser upon the property were without the knowledge or consent of CMH Homes Inc.

FURTHER AFFIANT SAYETH NOT.

Alan Xander

SUBSCRIBED to and SWORN before me this 9th day of May, 2012.

OFFICIAL SEAL
JUDY K. BENNETT
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 1-23-2018

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD MAY 1 0 2012

ADMINISTRATIVE CITATION

	er OF	= 11 11	NOIS Roard
SIA	EG	ontro	Board
Pollut	ion U	Office	

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
Complainant,	AC 17-39
v.) (IEPA NO. 78-12-AC)
CMH HOMES INC. AND DAVID R. MOSER,)
Respondents.)

NOTICE OF APPEARANCE

To: Illinois Environmental Protection Agency
Division of Legal Counsel

1021 North Grand Avenue East

P.O. Box 19276

Springfield, IL 62794-9276

David R. Moser

13546 North Harmony Lane

Opdyke, IL 62872

The undersigned attorney, Jeffrey G. Howard, of the law firm of Howard, Leggans, Piercy & Howard, LLP, hereby enters his appearance on behalf of the Respondent, CMH Homes Inc., and further requests all further pleadings be served at the address listed below.

Howard, Leggans, Piercy & Howard LLP

By

Jeffrey & Howard, Attorney for CMH Homes,

Inc.

JEFFREY G. HOWARD ARDC #6203080 HOWARD, LEGGANS, PIERCY & HOWARD LLP 1008 MAIN, P.O. BOX 1810 MT. VERNON, IL 62864 618/242-6594

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD MAY 1 0 2012

ADMINISTRATIVE CITATION

STATE OF ILLINOIS Pollution Control Board

	Pollution Control Bo
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,))
Complainant,	AC 12-39
\mathbf{v} .) (IEPA NO. 78-12-AC)
CMH HOMES INC. AND DAVID R. MOSER,)))
Respondents.)
CERTIFICATE OF S	SERVICE
I, the undersigned, on oath or affirmation, state that Petition for Review of CMH Homes Inc., Affide Appearance on the complainant by third party ca below:	avit, Notice of Filing and Notice of
COMPLAINANT'S ADDRESS:	
Name Illinois Environmental Protection Agency	ATTN: Division of Legal Counsel
Street 1021 North Grand Avenue East	
City, state, zip code Springfield, Illinois 62794-9	276
and by certified mail return receipt requested, to address below:	Respondent, David R. Moser, at the
RESPONDENT'S ADDRESS:	
Name <u>David R. Moser</u>	
Street 13546 North Harmony Lane	

City, state, zip code Opdyke, Illinois 62872

Jeffrey G. Howard attorney for CMH Homes Inc.
JEFFREY G. HOWARD
ARDC #6203080
HOWARD, LEGGANS, PIERCY & HOWARD LLP
1008 MAIN, P.O. BOX 1810
MT. VERNON, IL 62864
618/242-6594

Subscribed to and sworn before me this day of May, 2012

Didy V &

OFFICIAL SEAL
JUDY K. BENNETT
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 1-23-2016

/ Notary Public

My commission expires: 1-23-2016

Your Internal Billing Reference

OFFINCMH Homes

219

62864-4011

Phone (217) 782-2829

CIN MOUNT VERNON

Address

1008

MAIN ST

Recipients MS.

Michelle Ryan

Sender's Jeffrey G. Howard

May 9, 2012

Sender's FedEx Account Number

SEMBLES BULL 73-4742-7

Phone(618)242-6594

COMPANY HOWARD LEGGANS

PIERCY

œ

HOWARD

Faching Fraching Number œ ~J П ليا 4 _0 П ப 870

MUR 12

X FedEx Envelope* FedEx ZDay
Second business day," Thursday
sisponesis while deferred as Alunday
univers SARURBAY Downers a servered 5 Packaging . Dodard and Lord Mark State FedEx 20 by Fraight
Stream Symmetrs day." Runday phantens will be dolines and on Manday unless SAIURIDAY Onliney is solutioned FadEx 10ay Freight

Nach braness day "Friday highests wid FadEx (BayFreight Book) a Rock braness day "Friday highests will be defined to the control of the ⅓ 4b Express Freight Service Fedfex Priority Overnight
Nead custous morane, Friday
shipments will be delivered on Monday
unders Sartifulat Delivery as selected. Express Package Service 5120 题 FedEx Pak*
Includes FedEx Small Pakend
FedEx Largo Pak FedEx Standard Overnight
Mentiousmout othernoon."
Salunday Detherty NOT evaluates Fedex Express Saver
Third business day'
Seturday Debroy Mulli amalance ☐ FødEx DALF L.KgC FedEx 3Day Freight
Third business day." Skuntay it Geory NOT available. Earliest most begins a moving defense to subschool begins of the defense of the subschool begins of th Semiler's Cop Fackages up to 150 lbs Packages over 150 lbs. Other

Special Handling and Delivery Signature Options

SATURDAY Delivery

SATURDAY Delivery

Sandriabla for Middle Standard Oncoright, Reddle Express Seven, or Feddle Stany Probject

No Signature Required
Package may be left without
oblashing a squature for delivery Does this shipment contain dangerous goods?

HOLD Weekdby
FedEx tocation address
ReduineO. NOT hysiciate has
Fedex Feral theninght.

I IOLD Saturday
feelis begins address
EEDIBED for Jonath feelis Seediber feeling feeli

(largerous poods (including dry usa) carnot be imapped in FodEx packaging or placed in a FedEx Crymius Drop Box.

Payment Bill to:

No Support Procession.

Yes Support Ductarison natinguised.

One have must be checked

Direct Signature
Summons at reopeant's address
may signler deliberts for uppkin.

Indirect Signaturo
Indoore is evaluble at respector's
address, sometime in analybering
address may spoke delense, for
resedental debenics only for applice.

Dry Ice

Sender N Acca No. in Section 1 wall be bland Recipient Ernas Feglis Acct. No. 01 Crods Card No. below

☐ Third Party

Credit Card

Cash/Chack

图

Segextared lated

Total Weight

Total Declared Value

0420836786

Uso this fine for the XII(II face you address or for cardinustion of your shipping eddiess.

Springfield

State II

62794-9276

Address 1021 North Grand Avenue East We down drive to Fib beaster F.D. UP color.

Division of Legal Counsel

Illinois Environmental Protection Agency

්රිය් අධිවිතු ස රංකන් හා කිරීම යන්නේ ලංග එසේයේ අ අදාලික හැඩල . නිසේ එයැස් වේ ප්ලනය, සිද ගෙන ඉරක කිදුම් ලො අනුගේ මා ම සෞඛ්ය පාස්ථාන හා එල සිතේ ඒ එම් කිරීම් පත් ව එක පොසෝ එරෙයි. නිහැරට මින්ම, පාරක්ණාල ගොස එක් සිත් පට නිමාණු

Simplify your shipping. Manage your account. Access all the tools you need.

Ship and track packages at fedex.com

509

Cargo Aircralt Only

COMPLETE THIS SECTION ON DELIVERY SENDER: COMPLETE THIS SECTION A. Signature Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ☐ Agent ☐ Addressee Print your name and address on the reverse so that we can return the card to you. C. Date of Delivery B. Received by (Printed Name) Attach this card to the back of the mailpiece, or on the front if space permits. D. Is delivery address different from Item 1? 1. Article Addressed to: If YES, enter delivery address below: Mr. David R. Moser 13546 North Harmony Lane Opdyke, IL 62872 3. Service Type Certified Mail ☐ Express Mail ☐ Return Receipt for Merchandise ☐ Registered ☐ Insured Mail □ C.O.D. 4. Restricted Oelivery? (Extra Fee) ☐ Yes 2. Article Number 7006 2760 0002 7646 0692 (Transfer from service labs_ PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

7646 \$0.35 0405 Postage \$2.95 Certified Fee Return Receipt Fee (Endorsement Required) \$2.35 Restricted Delivery Fee (Endorsement Required) 2760 \$0.00 Total Postage & Fees \$ \$5,95 Sent 7006 Mr. David R. Moser 13546 North Harmony Lane Stree OF PC Opdyke, IL 62872 City.

HOWARD, LEGGANS, PIERCY & HOWARD LLP

GEORGE W. HOWARD, JR. (1932-1994) G. W. HOWARD III DAVID R. LEGGANS

ATTORNEYS AT LAW 1008 MAIN STREET **HOWARD BLDG. - PO BOX 1810** MT. VERNON, IL 62864

AREA CODE 618 **TELEPHONE 242-6594** FAX 244-7197

DAVID L. PIERCY JEFFREY G. HOWARD

May 9, 2012

Control Board

Mr. John Therriault, Clerk Illinois Pollution Control Board James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601

> Re: Illinois Environmental Protection Agency v. CMH Homes, Inc. and David Moser IEPA File No. 78-12-AC; 0818105002-Jefferson County

Dear Mr. Therriault:

Enclosed for filing, please find Petition for Review with Affidavit, Notice of Filing, Notice of Appearance and Certificate of Service in the above referenced matter, together with 9 copies of the same.

Thank you for your assistance. Should there be any questions or anything further required, please do not hesitate to let me know.

Very truly your

Acir

Jeffrey G. Howard

JGH/ikb enclosure

cc: Ms. Michelle M. Ryan Mr. Alan Xanders