

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

County of DuPage,)
)
 Complainant,)
)
 v.) AC 13-
)
 McKeown Classic Homes, Inc.)
)
 Respondent.)

14-9



ORIGINAL

RECEIVED
CLERK'S OFFICE
AUG 08 2013

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

TO: McKeown Classic Homes, Inc.
c/o Anthony G. Barone
635 Butterfield Road, Suite 145
Oakbrook Terrace, IL 60181

PLEASE TAKE NOTICE that on August 7, 2013 I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST.

Respectfully submitted,

Lisa A. Smith
Assistant State's Attorney

County of DuPage
503 North County Farm Road
Wheaton, IL 60187
(630) 407-8200

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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 v.)
) AC 14-9
) DP-AC-13-
 McKeown Classic Homes, Inc.)
)
 Respondent.)

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Pollution Control Board

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of the County of DuPage.

Respectfully submitted,

Lisa A. Smith

Lisa A. Smith
Assistant State's Attorney

DATED: August 7, 2013
County of DuPage
503 North County Farm Road
Wheaton, IL 60187
630-407-8200

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

County of DuPage,)
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14-9

ADMINISTRATIVE CITATION

<u>Violation:</u>	<u>Civil Penalty</u>
415 ILCS 5/21(p)(1)	\$1,500.00
415 ILCS 5/21(p)(7)(i)	\$1,500.00
TOTAL:	\$3,000.00

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.* (1996), specifically 415 ILCS 5/31.1.

FACTS

1. Complainant, County of DuPage, is a unit of local government to which the Illinois Environmental Protection Agency has delegated authority to issue administrative citations pursuant to Section 4(r) of the Illinois Environmental Protection Act, ("Act"), 415 ILCS 5/4(r) (2007). DuPage County is thus a "delegated unit" and may issue administrative citations under 35 Ill. Adm. Code 108.200.

2. The Respondent, McKeown Classic Homes, Inc., is the present owner and is in control of the property at 1S622 Sunnybrook, Glen Ellyn, located in the County of DuPage, State of Illinois.

3. The property is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with the Site Code #0438025029. The facility is known to the County as the McKeown site.

4. The Respondents have occupied, controlled and/or operated the facility at all relevant times hereto.

5. On July 10, 2013, Joy Hinz, Field Inspector for DuPage County as delegated by the Illinois Environmental Protection Agency, inspected the property. A true and correct copy of the inspection report, along with Ms. Hinz's affidavit, are attached hereto and made a part hereof.

6. Based upon direct observations made by Ms. Hinz during the course of her inspection, DuPage County has determined that Respondent violated the Act as follows:

- a. Respondent caused or allowed the open dumping of waste in a manner resulting in litter, in violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1);
- b. Respondent caused or allowed the open dumping of waste in a manner resulting in the deposition of general construction or demolition debris, in violation of Section 21(p)(7)(i).

Based upon the foregoing facts, under Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total civil penalty of Three Thousand Dollars (\$3,000.00).

Notices and Instructions to Respondent

1. **You must pay the civil penalty set forth above unless you contest this Administrative Citation.** The following paragraphs contain payment instructions and more information about contesting this Administrative Citation.

2. To pay the civil penalty (and any other amounts due) send two (2) checks or money orders with the attached Remittance Form, one check in the amount of One Thousand Five Hundred Dollars payable to DuPage County and the second check or money order in the amount of One Thousand Five Hundred Dollars payable to the Illinois Environmental Protection Agency to:

DuPage County
Department of Economic Development and Planning
Regulatory Services Division
421 North County Farm Road
Wheaton, IL 60187

To ensure that you receive timely and proper credit for your payment, complete the attached Remittance Form and include it with your payment.

3. You may contest this Administrative Citation by filing a Petition for Review, including a Notice of Filing, Certificate of Service, and Appearance with the Illinois Pollution Control Board (“Board”).
4. **Any Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation on you. The Board will not review the Administrative Citation if the Petition for Review is not filed within this time.**
5. The Petition for Review must be filed with:

Clerk of the Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

A copy of the Petition for Review must be served on the County of DuPage at the following address:

County of DuPage
Office of the State’s Attorney, Civil Division
503 North County Farm Road
Wheaton, IL 60187

6. The contents of a Petition for Review and the procedures to be followed are governed by the Board’s procedural rules. Copies may be obtained from the Clerk of the Board at the address above, by calling the Board at (312) 814-3620, or from the Board’s website at:

<http://www.ipcb.state.il.us/rules/procedural/procedural.htm>

7. If you do not contest this Administrative Citation by filing a petition for review with the Board within the allotted time, the Board will enter an order finding that you committed the violations alleged above imposing the statutory civil penalty set forth above. See Section 31.1(d) of the Act, 415 ILCS 5/31.1(d) and 35 Ill. Adm. Code 108.500(a).
8. If you contest this Administrative Citation by filing a timely petition for review with the Board, the Board will hold a hearing. The Board's procedural rules have more information on hearings; see 35 Ill. Adm. Code Parts 101 and 108.
9. If the Board finds after the hearing that you committed a violation as alleged above, you will be assessed the hearing costs incurred by the County of DuPage and the Board. Hearing costs are assessed in addition to the statutory civil penalty for the violations. If the Board finds after the hearing that you did not commit a violation as alleged above, or that the violation resulted from uncontrollable circumstances, you will not be assessed hearing costs and you will not have to pay a civil penalty.
10. If any civil penalty and/or hearing costs are not paid within the time set by the Board in its final order, interest on the amount due will be assessed against you from the date payment is due and including the date that payment is received.
11. If any civil penalty and/or hearing costs are not paid within the time set by the Board in its final order, the Office of the Illinois Attorney General and/or the City of Chicago Department of Law may initiate court proceedings against you to collect the amount due, plus any interest accrued. In that event, you may also be liable for court costs.

DATE: August 7, 2013

County of DuPage
Office of the State's Attorney

Lisa A. Smith
Assistant State's Attorney

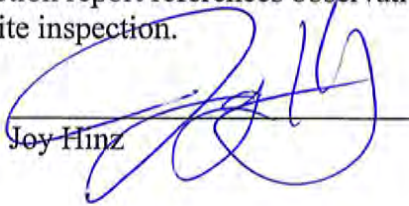
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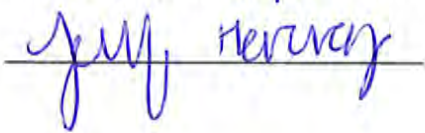
AFFIDAVIT

Affiant, Joy Hinz, being duly sworn, voluntarily deposes and states as follows:

1. At all times relevant to the above-captioned Administrative Citation, Affiant was employed as an inspector by the County of DuPage, Department of Economic Development and Planning.
2. On July 10, 2013 between 3:14 p.m. and 3:22 p.m., respectively, Affiant conducted an inspection of the property located at 1S622 Sunnybrook, Glen Ellyn, Illinois.
3. Affiant conducted an onsite inspection, which included walking around the property and photographing the site.
4. In connection with this inspection, Affiant completed the Inspection Report appended to and made part of the above-captioned Administrative Citation, which is an accurate record of Affiant's observations and factual conclusions with respect to the site. This July 10, 2013 inspection report references observations and factual conclusions with respect to the site inspection.

Joy Hinz 

Subscribed and sworn before me
This 6 day of August, 2013





State of Illinois
Environmental Protection Agency
Narrative Inspection Report Document

County: DuPage County
Inspector: Joy Hinz
Location: McKeown Classic Homes Property
1S622 Sunnybrook, Glen Ellyn, IL

Date: July 10, 2013
Site No: 0438045018
Time: 3:18 – 3:22 p.m.

Weather Conditions: 80 degrees Fahrenheit with mostly cloudy skies and winds from the north northwest at 13 mph and 71% humidity. Conditions obtained from The Weather Channel electronic mail.

Estimated Amount of Waste: 10 cubic yards

Pre-Inspection Notes: An inspection of the site was completed on August 31, 2012. At that time, a pile of roofing shingles had been open dumped on the property. Violation Notice L-2013-DP1085 was issued as a result. A response was submitted by Anthony G. Barone, Registered Agent, which stated that the site had been cleaned. A re-inspection of the site was conducted on April 26th during which I observed that the roofing shingles had not been removed and in additional waste (waste tires), had been abandoned at the site.

This inspection was conducted to determine the status of the site. Shefali Trivedi, DuPage County Regulatory Services Division, accompanied me on this inspection. After arriving, we walked to the southern side of the driveway where I observed that the pile of roofing shingles remained. We proceeded to the northern side of the driveway where we found approximately 22 waste tires, construction wood waste and an abandoned container of what appeared to be automotive fluid. The tires were comprised of bicycle or small equipment tires and automobile tires. There also were cushions from outdoor furniture lying in the vegetated area.

At the time we exited the site, open dumping violations remained. {End}

State of Illinois
Environmental Protection Agency
Site Sketch

County: DuPage County
Inspector: Joy Hinz
Location: McKeown Classic Homes Property
1S622 Sunnybrook, Glen Ellyn, IL

Date: July 10, 2013
Site No: 0438045018
Time: 3:14 – 3:22 p.m.

Not drawn to scale

North ↑

Indicates number and approximate direction of photograph



Photograph 1

Photographed by: J. Hinz

Date: July 10, 2013

Location: McKeown Classic Homes

Site No: 0438045018

Time: 3:14 p.m.

Comments: Taken facing southward showing the roofing shingles open dumped on the south side of the driveway.



Photograph 2

Photographed by: J. Hinz

Date: July 10, 2013

Location: McKeown Classic Homes

Site No: 0438045018

Time: 3:14 p.m.

Comments: Taken facing southwestward showing the shingle remaining on the site.



Photograph 3

Photographed by: J. Hinz

Date: July 10, 2013

Location: McKeown Classic Homes

Site No: 0438045018

Time: 3:16 p.m.

Comments: Taken facing northward showing a portion of the waste tires abandoned in the vegetation on the northern side of the driveway.



Photograph 4

Photographed by: J. Hinz

Date: July 10, 2013

Location: McKeown Classic Homes

Site No: 0438045018

Time: 3:16 p.m.

Comments: Taken facing northward showing the construction wood open dumped on the northern side of the driveway.



Instructions

Enter the date of your remittance, your Federal Employee Identification Number (FEIN) (or social security number (SSN) if an individual) and sign this Remittance Form. Print the name of the person signing this Remittance Form and that person's title, if applicable.

Send two (2) checks or money orders with the attached Remittance Forms, one check in the amount of One Thousand Five Hundred Dollars payable to DuPage County and the second check or money order in the amount of One Thousand Five Hundred Dollars payable to the Illinois Environmental Protection Agency to:

DuPage County
Department of Economic Development and Planning
Regulatory Services Division
421 North County Farm Road
Wheaton, IL 60187

REMITTANCE FORM

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)
 Respondent.)

FACILITY: McKeown Site
COUNTY: DuPage
DATE OF INSPECTION: July 10, 2013
SITE CODE: 0438045018
CIVIL PENALTY: \$3,000.00

Date Remitted _____

SS/FEIN # _____

Signature _____

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 COUNTY: DuPage
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 SITE CODE: 0438045018
 CIVIL PENALTY: \$3,000.00

Date Remitted _____
 SS/FEIN # _____
 Signature _____



ROBERT B. BERLIN
STATE'S ATTORNEY
DU PAGE COUNTY, ILLINOIS

August 7, 2013

Clerk of the Board
Illinois Pollution Control Board
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601

Re: Administrative Citation – McKeown Classic Homes, Inc.
AC# *****
Site Code 0438045018
Inspection Date: July 10, 2013

RECEIVED
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STATE OF ILLINOIS
Pollution Control Board

AC 14-9

Dear Clerk:

Enclosed for filing with the Board is the Administrative Citation packet issued against McKeown Classic Homes.

The Respondent's mailing address is McKeown Classic Homes, Inc. c/o Anthony G. Barone, 635 Butterfield Road, Suite 145, Oakbrook Terrace, IL 60181. I will send you the date, and proof of such, of service of the Citation on the Respondent. The site is known as the McKeown site.

Please acknowledge receipt and filing of the enclosed materials. Thank you.

Sincerely,

Lisa A Smith

Lisa A. Smith
Assistant State's Attorney

enclosures