

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JAN 16 2004

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

vs.

No. 04-7
(Enforcement-Air)

4832 S. VINCENNES, L.P., an Illinois limited
partnership, and BATTEAST
CONSTRUCTION, INC., an Indiana
Corporation,

Respondents.

ANSWERS TO COMPLAINANT'S FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS, OBJECTS, AND TANGIBLE THINGS ON RESPONDENT,
4832 S. VINCENNES, L.P.

Respondent, 4832 S. Vincennes, L.P. (VINCENNES), pursuant to Section 101.616 of the Board's Procedural Regulations, Hearing Officer Order dated October 21, 2003 and Illinois Supreme Court Rule 213, answers Complainant's First Request for Production of Documents, Objects and Tangible Things as follows:

I. REQUESTS

1. All documents that Respondents referred to, identified or relied upon in responding to Complainant's First Set of Interrogatories to Respondents.

See Attached.

2. All documents that Respondents referred to, identified or relied upon in answering Complainant's amended complaint.

See Attached.

3. All documents reflecting or relating to any environmental inspection and/or environmental audit of the subject site within the past 3 years.

See Attached.

4. All statements, notes and correspondence obtained from any person(s) with knowledge of the subject matter of the Complainant's amended complaint.

None.

5. Respondents' Federal and State income tax returns, including schedules for the years 2001, 2002 and 2003.

See Attached.

6. The most recent audit made of the financial condition of the Respondents.

See Attached.

7. All documents that:
 - a. reflect a business agreement or contract between VINCENNES and any other party for renovation and for the removal of asbestos containing material at any location on the site; or for demolition of any structure on the site;
 - b. any modifications thereto;

See Attached.

8. All drawings, studies, schematics, maps, plans, blueprints or charts depicting the site or illustrating any plans for its development, use or operation.

See Attached.

9. All documents relating to the testing or characterization of potentially asbestos-containing material at the site during the years 2001 through the present date.

See Attached.

10. All written notifications submitted to the Illinois EPA for asbestos renovation or demotion projects scheduled to occur at the site from January 1, 2001 through the present date.

See Attached.

11. All documents reflecting or relating to the removal, transfer or disposal of any and all waste from the site during the period January 1, 2001 through the present date.

See Attached.

12. All documents reflecting or relating to any inspection and/or environmental audit of the site by any person during the period 2001 through the present date.

See Attached.

13. Any photographs of the site or any portion thereof obtained during the period January 1, 1995 through the present date.

See Attached.

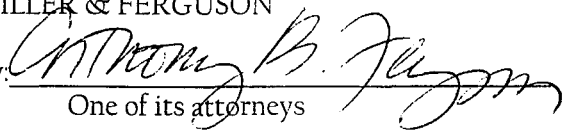
14. All documents VINCENNES intends to offer into evidence at trial.

See Attached.

Respectfully submitted,

MILLER & FERGUSON

By:


One of its attorneys

Miller & Ferguson, #91662
9415 South State Street
Chicago, Illinois 60619
(773) 660-4300

JAN 16 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

vs.

4832 S. VINCENNES, L.P., an Illinois limited
partnership, and BATTEAST
CONSTRUCTION, INC., an Indiana
Corporation,

Respondents.

No. 04-7
(Enforcement-Air)

ANSWERS TO COMPLAINANT'S FIRST SET OF INTERROGATORIES ON
RESPONDENT,
4832 S. VINCENNES, L.P.

Respondent, 4832 S. Vincennes, L.P. (VINCENNES), pursuant to Section 101.616 of the Board's Procedural Regulations, Hearing Officer Order dated October 21, 2003 and Illinois Supreme Court Rule 213, answers Complainant's First Set of Interrogatories as follows:

I. INTERROGATORIES

1. Please identify:
 - a. The individual(s) answering these interrogatories on behalf of the Respondent, including his or her relationship to Respondent, and how long he or she has been associated with Respondent.
 - b. Each person who provided information or who otherwise consulted, participated or assisted in connection with providing answers to these interrogatories, the nature of any such consultation or assistance, whether the information was based on personal knowledge, and if not on the basis of personal knowledge, on what basis it was provided.
 - c. For each person identified in Answer to Interrogatories No. 1(b), specify the particular interrogatories to which each such person contributed.

ANSWER:

- a. Anthony Ferguson – President
Mayfair Development, Inc. – General Partner 4832 S. Vincennes, L.P.
- b. Gregory V. Miller
Miller & Ferguson, Attorneys at Law
9415 South State Street, Chicago, IL 60619
- c. Interrogatories 3, 9 and 18

2. Identify the name, address, phone number, occupation, and responsibilities of any and all person having knowledge of the operations at the site and/or the facts pertaining to any possible open dumping or dumping outside of the permitted area and any of the facts alleged in the Complaint filed in People v. 4832 S. Vincennes, L.P. and Batteast Construction Company, Inc., PCB 04-07. Include any and all persons that Respondents intend to call as witnesses at hearing, including their relationship, if any, to each.

ANSWER:

None.

3. Pursuant to Illinois Supreme Court Rule 213(f), with respect to any hearing witnesses, please state the following:

- a. The name, address and employer of each witness;
- b. A summary of the relevant facts within the knowledge of or which said witnesses will testify to; and
- c. A listing of any documents or photographs, which any such witness has relied upon, will use or which may introduce into evidence in connection with the testimony of said witness.

ANSWER:

- a. Gregory V. Miller (Sixteen Hundred Investment Group, Ltd) 9415 S. State Street, Chicago, Illinois; and

Patrick Curtin (Department of Housing) 318 S. Michigan Avenue, Chicago, Illinois
- b. Mr. Miller & Mr. Curtin will testify as to when Respondent received notification from the Illinois Environmental Protection Agency of the environmental hazards. Mr. Miller will further testify as the actions of Respondent during the time periods stated in the subject complaint.
- c. Report from PGK Environmental Testing & Consulting to Batteast Construction dated March 19, 2002.

4. Furnish the identity and addresses of all expert witnesses who will testify at trial for Respondents, together with the subject matter on which each expert witness is expected to testify; the conclusions and opinions of each expert witness and the basis therefore; and the qualifications of each expert witness and a copy of all reports of such witnesses.

ANSWER:

None.

5. With respect to any witness(es) interviewed by Respondents who Respondents do not intend to call to testify at hearing, state the name and address of any such witness, state whether a transcript of any interview with said witness was prepared, or a memorandum prepared in connection with any such interview, and provide a summary of the facts and opinions relevant to this proceeding which were secured from said witness.

ANSWER:

None.

6. Pursuant to Illinois Supreme Court Rule 213(g), identify any and all opinion witnesses that Complainant have interviewed and/or expects to call at hearing. Specify:

- a. The subject matter on which the opinion witness is expected to testify as well as the conclusions, opinion and/or expected testimony of any such witness;
- b. The qualifications, including, but not limited to, the opinion witness' educational background, practical experience in the area he or she is expected to testify in, any articles and papers he or she has written, any and all seminars and post graduate training he has received, his experience, if any, as a teacher or lecturer and his or professional appointments and associations;
- c. The identity of each document examined, considered, or relied upon by him or her to form his or her opinions;
- d. All proceedings in which each opinion witness has previously testified as an opinion witness; and
- e. Any and all reports of the opinion witness.

ANSWER:

None.

7. With regard to VINCENNES, state:

- a. The date and state of formation;
- b. The names of all partners, limited and general of the partnership, the percent ownership and the dates when they became partners;
- c. The relationship between the partners, if any.

ANSWER:

- a. The limited partnership was created on or about April, 2000 in Illinois.
- b. 4832 S. Vincennes, L.P. consists of Mayfair Development, Inc., as general partner and Apollo Housing Group, LLP (Apollo) as limited partner. The percentage of ownership is .001% and .99% respectively.
- c. The partners became partners in the partnership at its inception.

8. Describe the nature of the relationship between VINCENNES and BATTEAST from August 1, 2001 to the present.

ANSWER:

Batteast Construction was hired by the Respondent as the general contractor for the rehabilitation work performed on 4832 S. Vincennes, Chicago, Illinois.

9. Please describe any conversations with Illinois EPA personnel by agents of the Respondents, especially those with Joe Zappa between the dates on January 31, 2002 and February 5, 2002, including the time, date, place, who was present, what was said, and whether any written notes or memoranda exist relating to the conversation.

ANSWER:

Joe Zappa left several telephone messages during the period stated for Gregory Miller. These messages left a return telephone number that was a cellular phone number. There was no office number given. There was a telephone conversation between Mr. Zappa and Mr. Miller during that period in which Mr. Zappa informed Mr. Miller of the environmental conditions stated in the complaint. During that conversation, Mr. Miller requested a written request to stop work or verification of Mr. Zappa's identity.

10. State whether from August 1, 2001 through the present date, VINCENNES operated, occupied, used, maintained and/or controlled the site, and describe the nature of such operation, occupancy, use maintenance and/or control and the time period(s) corresponding thereto.

ANSWER:

The site was owned by Respondent during the period in question.

11. Identify all persons and entities who have owned, operated, occupied, used, maintained and/or controlled the site from August 1, 2001 through the present date, and describe the nature of such ownership, operation, occupancy, use, maintenance and/or control and the time period(s) corresponding thereto.

ANSWER:

The Respondent was the only owner of site during the period in question.

12. Describe in detail any and all uses of the site during the period August 1, 2001 through the present date.

ANSWER:

The subject site is being rehabilitated by Batteast Construction, Inc. during the period in question. The scope of work is detailed in the scope of work from NIA Architects.

13. Describe in detail VINCENNES' role in the activities at the site that are the subject matter of the complaint herein, including any contractual arrangements for renovation, with the City or BATTEAST, VINCENNES' supervision of or participation in any renovation activity at the site from August 1, 2001 through the present date, and identify any written contract or agreement for the performance of such work.

ANSWER:

Respondent was and is the owner of said site and entered into a contract for the renovation of said site. Respondent did not participate or supervise the renovation of said site.

14. State whether VINCENNES, its agents or attorneys have knowledge or information concerning the existence of any statements, oral or written, not in VINCENNES' possession that pertains in any way to the matters alleged in the amended complaint. If so, state:

- a. The type of statement, e.g., written, reported, shorthand, oral, recorded;
- b. The full name and residence and business address of each person who provided the statement; and
- c. The full name and residence and business address of each person who has possession of the original or any copy of the statement.

ANSWER:

None.

15. State whether any photographs were taken of the scene of the occurrences alleged in the amended complaint. If so, state:

- a. By whom, when and how many photographs were taken;
- b. Who now has possession of said photographs; and
- c. The nature of the photographs.

ANSWER:

None.

16. State the date and substance of all written and oral communications within VINCENNES, to or from the Illinois EPA, or to or from other persons, regarding the subject of the violations alleged in the amended complaint other than stated in Answer No. 9. Identify all documents containing such communications. Identify VINCENNES personnel and any other persons involved in such communications.

ANSWER:

None.

17. State whether VINCENNES, or any person or entity acting on behalf of VINCENNES, confirmed the presence of asbestos in or around the site prior to the commencement of the asbestos removal activity that Complainant alleges commenced in February, 2002. If your answer is in the affirmative, please identify or describe.

- a. The locations at the site from which samples were obtained, the sampling methods utilized, the parameters or contaminants tested for, and the results obtained. Please attach a copy of all results;
- b. The testing method(s) by which the presence of asbestos was confirmed;
- c. The laboratory that performed the sampling and the laboratory that performed the analysis; and
- d. All persons or entities with knowledge of the sampling and study and the basis of their knowledge.

ANSWER:

None.

18. Identify any studies or evaluations performed from January 2001 through the present date by, or for, VINCENNES regarding the presence or extent of asbestos at the site, or any plan or recommendation for remediation of identified asbestos contamination. Identify any documents relating to such studies, evaluations, plans or recommendations, and any persons having knowledge of any facts of such studies, evaluations, plans or recommendations.

ANSWER:

The Respondent is aware of and is in possession of a report from PGK Environmental Testing & Consulting dated March 19, 2002. Said report is being provided to Complainant pursuant to its production request.

Respectfully submitted,

MILLER & FERGUSON

By 
One of its attorneys

Miller & Ferguson, #91662
9415 South State Street
Chicago, Illinois 60619
(773) 660-4300

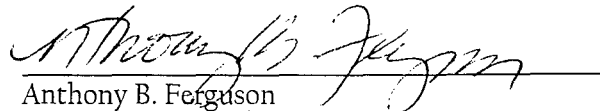
RECEIVED
CLERK'S OFFICE

JAN 16 2004

STATE OF ILLINOIS
Pollution Control Board

Verification

I, Anthony B. Ferguson, being first duly sworn on oath, deposes and states pursuant to 735 ILCS 5/1-109 that he is the above and foregoing Respondent and 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.


Anthony B. Ferguson

Miller & Ferguson, #91662
9415 South State Street
Chicago, Illinois 60619
(773) 660-4300