

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

| | | |
|-------------------------------------|---|---------------------|
| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| -vs- |) | No. 05-181 |
| |) | |
| PATTISON ASSOCIATES LLC, an |) | (Enforcement - Air) |
| Illinois limited liability company, |) | |
| and 5701 SOUTH CALUMET LLC, an |) | |
| Illinois limited liability company, |) | |
| |) | |
| Respondents. |) | |

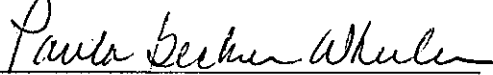
To: See Attached Service List.
(VIA ELECTRONIC FILING)

NOTICE OF FILING

PLEASE TAKE NOTICE that today pursuant to agreement for extension of time with the Respondents and the Hearing Officer, I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complainant's Response to Respondents' Amended Request for Admissions of Fact, a copy of which is attached and hereby served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
Attorney General of the
State of Illinois

BY: 
PAULA BECKER WHEELER
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Flr.
Chicago, IL 60601
(312) 814-1511

Date: December 20, 2005

THIS DOCUMENT IS PRINTED ON RECYCLED PAPER

SERVICE LIST

Mr. Neal Weinfield/Ms. Allyson L. Wilcox
Bell Boyd & Lloyd
70 West Madison
Suite 3100
Chicago, IL 60602

Mr. Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph Street
Suite 11-500
Chicago, IL 60601

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**COMPLAINANT'S RESPONSE TO RESPONDENTS' AMENDED
REQUESTS FOR ADMISSIONS OF FACT**

Now comes Complainant, PEOPLE OF THE STATE OF ILLINOIS by LISA MADIGAN, Attorney General of the State of Illinois, pursuant to an agreement for an extension of time for filing, and responds to Respondents' Amended Requests for Admissions of Fact, as follows:

1. Admit that October 15, 2003, was the first time that the Illinois Environmental Protection Agency performed an inspection of the subject apartment complex.

ANSWER: Admit.

2. Admit that the Illinois Environmental Protection Agency discovered alleged asbestos containing material in only room of the basement at the subject site.

ANSWER: The Request is unclear, but Complainant admits that asbestos was discovered in both sections of the basement of the subject site.

3. Admit that the Illinois Environmental Protection Agency never witnessed Pattison performing any renovation and/or demolition of any nature in the room where the possible asbestos containing materials were discovered.

ANSWER: Admit.

4. Admit that the Illinois Environmental Protection Agency has no documentation (whether written, photographic or otherwise) establishing that Pattison performed any renovation and/or demolition of any nature in the room where the possible asbestos containing materials was discovered.

ANSWER: Admit, investigation continues.

5. Admit that the Illinois Environmental Protection Agency has not received and is unaware of the existence of any statements (oral or written) establishing that Pattison performed any renovation and/or demolition of any nature in the room where the possible asbestos containing materials were discovered.

ANSWER: Deny.

6. Admit that, prior to removal of the alleged asbestos containing material, the Illinois Environmental Protection Agency did not conduct any air sampling and laboratory analysis which established the presence of air-borne asbestos at the subject property.

ANSWER: Admit.

7. Admit that, prior to removal of the alleged asbestos containing material, the Illinois Environmental Protection Agency did not conduct any air sampling and laboratory analysis which established the presence of air-borne asbestos at the subject property.

ANSWER: Admit.

8. Admit that the Illinois Environmental Protection Agency never observed any discharge or emission of asbestos into the air at the subject site.

ANSWER: Dry, friable asbestos was observed on the floor of the basement threatening air emissions.

9. Admit that the Illinois Environmental Protection Agency has not received and is unaware of the existence of any statements (oral or written) which establishes that Pattison caused the discharge or emission of asbestos into the air at the subject site.

ANSWER: Deny.

10. Admit that the Illinois Environmental Protection Agency did not witness Pattison conducting any act that threatened the discharge or emission of asbestos into the air at the subject site.

ANSWER: Complainant admits that Respondents allowed dry, friable asbestos to remain on the subject site.

11. Admit that the Illinois Environmental Protection Agency has not received and is unaware of the existence of any statements (oral or written) establishing that Pattison threatened the discharge or emission of asbestos into the air at the subject site.

ANSWER: Deny.

12. Admit that the Illinois Environmental Protection Agency never witnessed Pattison allowing the discharge or emission of asbestos into the air at the subject site.

ANSWER: Deny.

13. Admit that the Illinois Environmental Protection Agency has not received and is unaware of the existence of any statements (oral or written) establishing that Pattison allowed the discharge or emission of asbestos into the air at the subject site.

ANSWER: Deny.

14. Admit that the Illinois Environmental Protection Agency has no laboratory, photographic or other analytical documentation evidencing that Pattison allowed the discharge or emission of asbestos into the air at the subject site.

ANSWER: Deny.

15. Admit that the Illinois Environmental Protection Agency never witnessed respondents ever handling, in any manner, asbestos at the subject site at any time.

ANSWER: Admit.

16. Admit that the Illinois Environmental Protection Agency has not received and is unaware of the existence of any statements (oral or written) establishing that respondents ever handled, in any manner, asbestos at the subject site at any time.

ANSWER: Deny.

17. Admit that the Illinois Environmental Protection Agency has no documentation establishing that respondents knew, when they purchased or worked at the subject site that there was alleged asbestos containing material at the subject site.

ANSWER: Admit.

18. Admit that the Illinois Environmental Protection Agency has not received and is unaware of the existence of any statements (oral or written) which establishes that respondents knew, when they purchased or worked at the subject site that there was alleged asbestos containing material at the subject site.

ANSWER: Admit.

19. Admit that the Illinois Environmental Protection Agency has no documentation (whether photographic, written or otherwise) establishing that respondents knew, when purchasing or working at the subject site that there was alleged asbestos containing material at the subject site.

ANSWER: Admit.

20. Admit that between March 25, 2003, and October 30, 2003, the Illinois Environmental Protection Agency never witnessed respondents conducting renovation activities as defined in the NESHAPs regulations at the subject site in the particular location where alleged asbestos containing material was discovered.

ANSWER: Complainants admit that Respondents were renovating the adjacent property at the time of the IEPA inspection of the subject site.

21. Admit that between March 25, 2003, and October 30, 2003, the Illinois Environmental Protection Agency has no documentation establishing that respondents conducted renovation activities as defined in the NESHAPs regulations at the subject site in the particular location where alleged asbestos containing material was discovered..

ANSWER: Admit, investigation continues.

22. Admit that between March 25, 2003, and October 30, 2003, the Illinois Environmental Protection Agency has not received and is unaware of the existence of any statements (oral or written) establishing that respondents conducted renovation activities as defined in the NESHAPs regulations at the subject site in the particular location where alleged asbestos was containing material discovered.

ANSWER: Deny.

23. Admit that the Illinois Environmental Protection Agency never witnessed respondents performing any wrecking or removal of any load-supporting structural member at the subject site in the particular location where the alleged asbestos containing material was discovered.

ANSWER: Admit.

24. Admit that the Illinois Environmental Protection Agency has no documentation establishing that respondents performed any wrecking or removal of any load-supporting structural member at the subject site in the particular location where the alleged asbestos containing material was discovered.

ANSWER: Admit.

25. Admit that the Illinois Environmental Protection Agency has not received and is unaware of the existence of any statements (oral or written) establishing that respondents performed any wrecking or removal of any load-supporting structural member at the subject site in the particular location where the alleged asbestos containing material was discovered.

ANSWER: Admit.

26. Admit that the Illinois Environmental Protection Agency never witnessed respondents performing any intentional burning at the subject site in the particular location where the alleged asbestos containing material was discovered.

ANSWER: Admit.

27. Admit that the Illinois Environmental Protection Agency has no documentation establishing that respondents performed any intentional burning at the subject site in the particular location where the alleged asbestos containing material was discovered.

ANSWER: Admit.

28. Admit that the Illinois Environmental Protection Agency has not received and is unaware of the existence of any statements (oral or written) establishing that respondents performed any intentional burning at the subject site in the particular location where the alleged asbestos containing material was discovered.

ANSWER: Admit.

29. Admit that the Illinois Environmental Protection Agency never witnessed respondents performing any alteration of the subject site in the particular areas where the alleged asbestos containing material was discovered.

ANSWER: Complainants admit that Respondents were renovating the adjacent property at the time of the IEPA inspection of the subject site.

30. Admit that the Illinois Environmental Protection Agency has not received and is unaware of the existence of any statements (oral or written) establishing that respondents performed any alteration of the subject site in the particular areas where the alleged asbestos containing material was discovered.

ANSWER: Deny.

31. Admit that the Illinois Environmental Protection Agency has not received and is unaware of the existence of any documents establishing that respondents performed any alteration of the subject site in the particular areas where the alleged asbestos containing material was discovered.

ANSWER: Admit, investigation continues.

32. Admit that that Illinois Environmental Protection Agency never witnessed respondents stripping or removing any alleged asbestos containing material from anywhere within the subject site prior to October 30, 2003.

ANSWER: Admit.

33. Admit that that Illinois Environmental Protection Agency has no documentation establishing that respondents stripped or removed any possible asbestos containing material from anywhere within the subject site prior to October 30, 2003.

ANSWER: Admit.

34. Admit that that Illinois Environmental Protection Agency has not received and is unaware of the existence of any statements (oral or written) establishing that respondents

stripped or removed any possible asbestos containing material from anywhere within the subject site prior to October 30, 2003.

ANSWER: Deny.

35. Admit that that Illinois Environmental Protection Agency has not received and is unaware of the existence of any statements (oral or written) establishing that respondents stripped or removed any possible asbestos containing material from anywhere within the subject site prior to October 30, 2003.

ANSWER: This is a duplicate of Request No. 34, same response applies.

36. Admit that the Illinois Environmental Protection Agency never witnessed alleged asbestos containing material in any disposed of in a trashcans dumpster or other location at or adjacent to the subject property.

ANSWER: The Request is unclear, but Complainant admits seeing asbestos containing materials on the floor of the basement and on the pipes in the basement of the subject site

37. Admit that the Illinois Environmental Protection Agency never witnessed respondent disposing of asbestos in any trashcan dumpster or other location at or adjacent to the subject property.

ANSWER: Complainant admits seeing asbestos containing materials on the floor of the basement of the subject site.

38. Admit that the Illinois Environmental Protection Agency has no photographic documentation of any asbestos in any trashcan dumpster or other location at or adjacent to the subject property.

ANSWER: Admit.

39. Admit that Section 61.145(a) of Title 40 of the Code of Federal Regulations, 40 CFR 61.145(a) (July 1, 1998), as adopted in Section 9. 1(d) of the Act, titled Standard for demolition and renovation, only requires inspection of part of the facility where the demolition or renovation operation will occur for the presence of asbestos.

ANSWER: Complainant objects to this question as calling for an interpretation of the law, but without waiving the objection, responds: Admit.

40. Admit that Section 61.145(b)(1) of USEPA's NESHAPs, 40 CFR 61.145(b)(1) (July 1, 2002), only requires notification if demolition or renovation is scheduled to occur in a part of a facility that contains asbestos containing material.

ANSWER: Complainant objects to this question as calling for an interpretation of the law, but without waiving the objection, responds: Deny.

41. Admit that Section 6 *1.145(c)* of USEPA's NESHAPs, 40 CFR 61.145(c)(July 1, 2002), titled Procedures for asbestos emission control, is not applicable to demolition or renovation of a location where asbestos is not present.

ANSWER: Complainant objects to this question as calling for an interpretation of the law, but without waiving the objection, responds: Admit.


42. Admit that no renovation or demolition took place in the room in the basement where alleged asbestos containing material was discovered.

ANSWER: Deny.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
Attorney General of the
State of Illinois

BY:


PAULA BECKER WHEELER
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Flr.
Chicago, IL 60601
(312) 814-1511

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PEOPLE OF THE STATE OF ILLINOIS,)

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-vs-)

No. 05-181

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(Enforcement - Air)

Illinois limited liability company,))

and 5701 SOUTH CALUMET LLC, an)

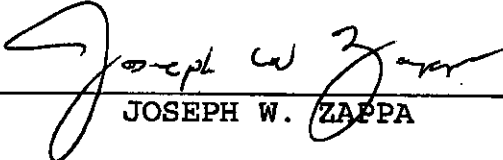
Illinois limited liability company,))

Respondents.)

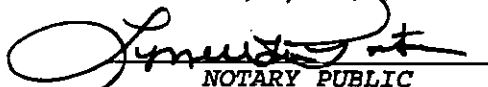
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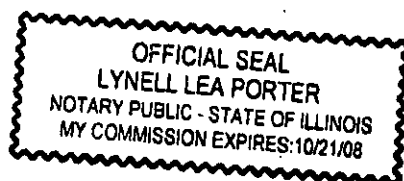
I, JOSEPH W. ZAPPA, being duly sworn on oath, depose and state that the factual matters set forth in the foregoing Complainant's Response to Respondents' Amended Requests for Admissions of Fact are true and correct in substance and in fact, to the best of my knowledge and belief.

FURTHER, AFFIANT SAYETH NOT.


 JOSEPH W. ZAPPA

SUBSCRIBED and SWORN
 to before me this 20th day
 of December, 2005.


 NOTARY PUBLIC



CERTIFICATE OF SERVICE

I, PAULA BECKER WHEELER, an Assistant Attorney General in the case of People v. Pattison Associates et al., PCB 05-181, do certify that I caused to be served this 20th day of December, 2005, the foregoing Complainant's Response to Respondents' Amended Request for Admissions of Fact upon the persons listed on said Notice by depositing same in an envelope, by first class postage prepaid, with the United States Postal Service at 188 West Randolph Street, Chicago, Illinois, at or before the hour of 5:00 p.m.


PAULA BECKER WHEELER

December 20, 2005