

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

OCT 11 2007

In the Matter of:

ENTERED DIRECTOR'S JOURNAL

DJD & C Development, Inc.
7886 Via Attilio
Poland, OH 44514

Director's Final Findings
and Orders

Respondent

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

By: Jimmy G. Jacobs Date: 10-11-07

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to DJD & C Development, Inc., ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in the ownership or composition of Respondent or the ownership of the Site (defined below) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111., and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. Respondent, a for profit corporation, is the developer of Tuscany Estates ("Site"), including Plat No. 7 and Plat No. 2, located south of Dobbins Road, in Poland Township, Mahoning County, Ohio. Plat No. 7 encompasses lots along most of the length of Via Bellagio. Plat No. 2 includes lots along much of Tuscany Creek, and Capri Court, and other areas.
2. Ohio Administrative Code ("OAC") Rule 3745-42-02 prohibits any person from installing a new "disposal system," as defined in ORC § 6111.01, without first obtaining a permit to install ("PTI") from the Director of Ohio EPA.

3. ORC § 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by ORC §§ 6111.01 to 6111.08, or violating any rule adopted by the Director pursuant to those sections, including OAC Rule 3745-42-02.
4. PTI application No. 02-16909, together with detail plans, was received at Ohio EPA, Northeast District Office, on August 7, 2002, for the installation of sanitary sewer improvements at Plat No. 7 of the Site.
5. On August 15, 2002, Ohio EPA notified Respondent by letter that additional information was required to obtain approval of PTI application No. 02-16909. Respondent has not submitted the requested additional information.
6. In early September, 2006, an Ohio EPA inspector observed that the sanitary sewers appeared to have been installed at the Site, even though no PTI had been approved for their installation.
7. On September 11, 2006, Ohio EPA notified Respondent by letter that the installation of sanitary sewers prior to receiving approval from Ohio EPA is a violation of ORC Chapter 6111.
8. On September 20, 2006, Domonic Marchionda, President of DJD & C Development, Inc., confirmed via telephone that the installation of the sanitary sewers in Plat No. 7 was complete.
9. On May 8, 1998, Ohio EPA issued PTI No. 02-11440 to Respondent for the installation of sanitary sewers in an area designated as Plat No. 2 in a PTI application received by Ohio EPA, Northeast District Office, on July 24, 1997.
10. Subsequent to the date PTI No. 02-11440 was issued, Respondent acquired additional property to the north of Plat No. 2 and expanded Plat No. 2 to include the additional property. This was accomplished by bending Tuscany Creek to the north in the newly acquired area and adding a new street, Capri Court, ending in a cul-de-sac in the newly acquired area.
11. Respondent failed to submit an application to modify PTI No. 02-11440 for installation of sanitary sewers in the portion of expanded Plat No. 2 which was not included in PTI No. 02-11440.
12. Sanitary sewers were installed in the expanded area of Plat No. 2 at the Site without an

approved PTI from Ohio EPA.

13. The sanitary sewers which were installed in Plats Nos. 2 and 7 are "disposal systems" as defined in ORC § 6111.01.
14. By letter dated December 11, 2006, and in subsequent telephone conversations, Ohio EPA has requested as-built drawings and specifications for the sanitary sewers for Plats Nos. 2 and 7 from Respondent. To date, as-built plans have not been received.
15. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

1. Respondent shall not install sewerage or treatment works for sewage disposal or new disposal systems, including, but not limited to, sanitary sewers, at any location in Ohio without first receiving prior approval from the Director as required by law.
2. Within thirty (30) days of the effective date of these Orders, Respondent shall submit to Ohio EPA, in accordance with Section X. of these Orders, approvable PTI applications and detailed plans for sanitary sewers in Plat No. 2 and Plat No. 7 at the Site.
3. Respondent shall pay to Ohio EPA the amount of two thousand seven hundred sixty-two dollars (\$2,762.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Payment shall be made by tendering official checks made payable to "Treasurer, State of Ohio" in accordance with the schedule below. The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondent and the Site, at the following address:

Ohio EPA,
Office of Fiscal Administration,
P.O. Box 1049,
Columbus, Ohio 43216-1049.

- A. Within forty-five (45) days after the effective date of these Orders,

Respondent shall pay to Ohio EPA the amount of six hundred ninety dollars and fifty cents (\$690.50).

- B. Within ninety (90) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of six hundred ninety dollars and fifty cents (\$690.50).
- C. Within one hundred thirty-five (135) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of six hundred ninety dollars and fifty cents (\$690.50).
- D. Within one hundred eighty (180) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of six hundred ninety dollars and fifty cents (\$690.50).

A photocopy of each check shall be sent to Ohio EPA, Northeast District Office at the address in Section X. of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to the Site.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

Unless otherwise specified herein, all documents required to be submitted by Respondent shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Surface Water
2110 E. Aurora Road
Twinsburg, OH 44087
Attn: DSW Enforcement Coordinator

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to

comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency



Chris Korleski
Director

10/2/07
Date

IT IS SO AGREED:
DJD & C Development, Inc.



Signature

Date 9/20/07

Printed or Typed Name

DOMINIC J. MARCHIONDO

Title

President

