

AGREED BOARD ORDER NO. 06-04

LOUISVILLE METRO AIR POLLUTION CONTROL BOARD

Incident No. 04166

This Order is issued by the Louisville Metro Air Pollution Control Board (Board) pursuant to Kentucky Revised Statutes Chapter 77, (Air Pollution Control). This Agreement is made by and between the Board and Masonic Homes of Kentucky (Company), a Kentucky corporation.

COMPANY: Masonic Homes of Kentucky
3761 Johnson Hall Drive
Masonic Homes, Kentucky

REGULATION INVOLVED: 5.04 (Adoption of Federal Emission Standard for Asbestos)

NOTICE OF VIOLATION LETTER: No. 01784, dated April 14, 2006

BACKGROUND AND DISCUSSION:

The Company operates a residential retirement facility at 3701 Frankfort Avenue in Louisville. On January 27, 2006, the District received a complaint that workers were removing a boiler covered with asbestos containing material (ACM) from the boiler room at the facility. Upon investigation, the District determined that a large amount of ACM had been disturbed during the removal of the boiler. The District advised the Company to seal the building to prevent release of the fibers to the outside air and to have the ACM abated in compliance with District regulations. The Company did stop the work, but allegedly did not seal the boiler building until February 16, 2006, 17 days later.

The District alleged in its Notice of Violation that workers not trained in asbestos abatement disturbed insulation that contained asbestos without prior notification to the District. The District further alleged that the workers failed to adequately wet the material during abatement and to contain the material properly to prevent the emission of asbestos fibers to the outside. The Company has now demonstrated to the District that it had hired a company to conduct an asbestos survey prior to the disturbance of the ACM and that the survey reported that the insulation material contained no asbestos. The results of the District's analysis of the material, however, is that the material is 28% chrysotile asbestos. In this action, therefore, the District alleges only that the Company failed to prevent the release of asbestos fibers to the outside air (by failing to seal the building) after being advised by the District that the insulation material contained asbestos.

To fully resolve the violations alleged above of District Regulation 5.04, the parties agree to this Order assessing against the Company an administrative settlement of \$13,000.

On June 21, 2006, a public hearing was held before the Board on the proposed settlement. Based upon the evidence presented at that hearing, the Board determined that the proposed resolution and requirements were reasonable under the circumstances.

NOW, THEREFORE, BE IT ORDERED THAT:

1. The Company has paid \$13,000 to the Louisville Metro Air Pollution Control District.
2. The Company has reviewed this Order and consents to all its requirements and terms. Further, the Company agrees to pay the cost of publishing legal notice of the public hearing.
3. In the event that it is necessary for the District to seek a court order to enforce this Order, the Company agrees to pay filing fees and costs of such action.
4. This Order fully resolves the violations alleged in District Incident No. 04166, and as alleged above in this Order.
5. Neither this Order nor the actions taken hereunder shall constitute an admission by Company of any wrongdoing regarding any of the matters referenced in the Order.

Dated this 21st day of June, 2006.

Louisville Metro Air Pollution Control Board

By: _____
Karen A. Cassidy
Chair

Masonic Homes of Kentucky

By: _____
Gary R. Marsh
Chief Operating Officer

Louisville Metro Air Pollution Control
District

By: _____
Jesse Goldsmith, P.E.
Engineering/Enforcement Manager

Approved as to form and legality:

By: _____
Lauren Anderson
Assistant County Attorney