

**Minutes  
Public Hearing  
of the  
Louisville Metro Air Pollution Control Board**

**November 18, 2015**

A public hearing of the Louisville Metro Air Pollution Control Board was called to order on November 18, 2015, at 10:01 a.m. in the Board Room of the Louisville Metro Air Pollution Control District, 850 Barret Avenue, Louisville, Kentucky by the Chairman, Dr. Robert Powell.

**General Statement, Rules and Purpose**

The Chairman read the opening announcements, rules and purpose of the public hearing, which was to review Agreed Board Orders with BASF Corporation and Brookside Properties Inc.

**1. Agreed Board Order with BASF Corporation**

Ms. Terri Phelps, Enforcement Supervisor, asked the Board to consider and adopt a proposed Agreed Board Order alleging that BASF Corporation violated federal and District regulations, and directing the company to pay an administrative penalty. The company agreed to the terms of the Order.

BASF Corporation manufactures chemical products pursuant to a federally-enforceable District operating permit. In July of this year, BASF notified the District that the company had conducted a facility compliance audit and had discovered that its operations were not in compliance with the Area Source Chemical Manufacturing MACT, part of the federal toxics program. BASF confirmed in a revised Initial Notice of Compliance Status in July that it had failed for the previous two years to conduct quarterly leak checks and repairs, to demonstrate 95% control of hazardous metal emissions, to prepare a monitoring plan for the controls, and to keep records and to report timely and accurately.

BASF has now implemented a management system providing for quarterly inspections and repair, demonstrated 95% control of hazardous metal emissions, submitted a monitoring plan for the control devices, and has caught up its reporting.

The District assessed, and the company agreed to, an administrative penalty of \$7,500 to resolve the alleged violations.

**Statements**

No statements were made.

**2. Agreed Board Order with Brookside Properties Inc.**

Ms. Phelps asked the Board to consider and adopt a proposed Agreed Board Order alleging that Brookside Properties Inc. had violated District Regulations 2.03 and 5.04, which adopts by reference federal asbestos requirements for demolition and renovations, and requiring Brookside to pay an administrative penalty. The company agreed to the terms of the Order.

In April of this year, the District received a complaint that asbestos-containing materials were being removed at a renovation project at a large apartment complex, the Metropolitan Apartments. When District compliance officers arrived to investigate, they inspected three apartment buildings and found that extensive renovations had taken place. They spoke with the project manager for Brookside, the company managing the renovation, and he told them that a thorough inspection for asbestos had been made before the renovations began, and he referred them to an asbestos contractor. Upon speaking with Brookside's asbestos contractor, District officers learned that no asbestos inspection had been made at the complex. The District advised and Brookside agreed, to cease all renovation activity at the complex until a thorough inspection could be made.

During follow-up inspections, District officers found that demolition and renovation activities had taken place in five additional buildings, with the debris that contained suspected asbestos-containing materials remaining in the apartments. On May 8, the District received an asbestos survey from Brookside's asbestos contractor that revealed asbestos-containing materials in all of the apartments, except for four buildings where the renovation had already been completed and one building that was occupied and, therefore, not being renovated at this time. On May 11, the District received a notification of renovation and demolition activity from Brookside's asbestos contractor and issued a permit for the cleanup and abatement of the remaining asbestos-containing material at the Metropolitan Apartments, except for the one occupied building.

Several months later, in August, District officers discovered during a follow-up inspection at the complex that an additional building was being renovated, which Brookside had previously advised the District had already been renovated, and which had not been included in the asbestos survey. Brookside's project manager explained that renovation of this building had taken place previously, but that Brookside had decided to make additional renovations to this building and failed to have the asbestos-containing materials abated by the abatement contractor before renovation began.

Because Brookside Properties is currently conducting a renovation project at one or more other apartment complexes in Metro Louisville, the Order required Brookside to submit a weekly report of all its renovation activities in Metro Louisville for as long as Brookside is working in Louisville.

The District assessed, and Brookside agreed to, an administrative penalty of \$41,250 that will be paid in four monthly payments by February 18, 2016.

## **Statements**

Dr. Powell asked whether the District was able to determine whether the company's actions posed any risk to the public.

Ms. Phelps estimated that the risk would likely be low since the type of asbestos involved in the projects was non-friable. Even so, the District required that the company's asbestos abatement contractor conduct air quality sampling after the violations were discovered and before any other abatement took place.

Dr. Neville Pinto asked how the District calculated the penalties. Ms. Phelps reported that the District uses the EPA asbestos penalty policy, which takes into account, among other things, the size of the violator, economic benefits, and repeat violations.

Mr. Steve Thomas asked whether the District required or Brookside offered to submit a weekly report of all their renovations activities. According to Ms. Phelps, the District asked Brookside to do it after Brookside explained that it believed that most of the problem that led to the violations were due to scheduling.

**Adjourn**

The public hearing adjourned at 10:11a.m.

---

Robert W. Powell  
Chairman

---

Rachael Hamilton  
Secretary-Treasurer