

**LOUISVILLE METRO AIR
POLLUTION CONTROL BOARD
ADMINISTRATIVE ACTION NO. 05-LMAPD-0485**

LOUISVILLE METRO AIR
POLLUTION CONTROL DISTRICT

PETITIONER

v.

ELDER CONSTRUCTION AND ASSOCIATES, INC.,
YANA ELDER CO. and FRED RADCLIFFE, JR.

RESPONDENTS

* * * * *

ORDER

This Order is issued by the Louisville Metro Air Pollution Control Board (Board) pursuant to Kentucky Revised Statutes, Chapter 77 (Air Pollution Control) and District Regulation 1.19 (Administrative Hearings).

On October 27, 2005, the District filed a Petition for Administrative Hearing seeking a joint civil penalty of \$57,000 against Respondents Elder Construction Company, Inc., Yana Elder Co., and Fred Radcliffe, Jr. A hearing was conducted by Scott D. Majors, a hearing officer with the Division of Administrative Hearings, Office of the Attorney General. The hearing began on May 17, 2006, and concluded on May 18, 2006.

On October 5, 2006, the hearing officer issued Findings of Facts, Conclusions of Law, and Recommended Order. The Recommended Order recommended that the Board enter a final Order affirming the allegations contained in the District's Petition for Administrative Hearing; adjudging each of the Respondents jointly liable; and assessing a joint civil penalty of \$57,000. The parties were granted the opportunity to file exceptions to the Recommended Order and no

exceptions were filed. On December 13, 2006, a public hearing was held before the Board and the hearing officer's report was reviewed. The Board having fully considered the record before it,

IT IS HEREBY ORDERED:

The Louisville Metro Air Pollution Control Board adopts the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommended Order which (1) AFFIRMS the allegations contained in the District's Petition for Administrative Hearing, dated on or about October 28, 2005; (2) ADJUDGES each of the Respondents to be jointly liable; and (3) ASSESSES a joint civil penalty in the amount of \$57,000 against the Respondents.

This is a final order which may be appealed pursuant to KRS 77.315.

Dated this 13th day of December, 2006.

Louisville Metro Air Pollution Control Board

By: _____
Karen A. Cassidy
Chair

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was mailed to:

Elder Construction and Associates, Inc.
Attn: David S. Elder, Registered Agent
10197 Bunsen Way
Louisville, Kentucky 40299

Yana Elder Co.
Attn: Yana Elder, Registered Agent
11318 Bodley Drive
Louisville, Kentucky 40223

Fred Radcliffe, Jr.
2600 Six Mile Lane
Louisville, Kentucky 40220

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Jonathan L. Trout
Secretary-Treasurer