

AGREED BOARD ORDER NO. 13-04

LOUISVILLE METRO AIR POLLUTION CONTROL BOARD

Incident No. 06456

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 Kosair Charities Committee, Inc., a Kentucky non-profit corporation (Company), and is effective on the date of its adoption by the Board.

COMPANY: Kosair Charities Committee, Inc.
982 Eastern Parkway
Louisville, KY 40217

REGULATIONS INVOLVED:

District Regulation 5.04: Adoption of Federal Emission Standard for Asbestos
40 Code of Federal Regulations §61.145: Standards for Demolition and Renovation

NOTICE OF VIOLATION LETTER: No. 02473, dated February 8, 2013

BACKGROUND AND DISCUSSION:

Company began a renovation project in February 2012 at the Kosair Charities Centre building located on Eastern Parkway. During the course of the project, Company allowed floor tile and mastic to be removed prior to thoroughly inspecting for asbestos.

On September 9, 2012, the District was inspecting the Centre building for a related asbestos abatement project when a compliance officer noticed the removal of floor tile in the basement. The tile and mastic was suspected of containing asbestos, and the District had not been notified of its removal. While most of the materials had already been removed and disposed of, mastic adhesive on the floor indicated the project covered approximately 2,029 square feet.

The District collected samples of the tile and mastic and Company stopped work in the affected areas. Company hired Micro-Analytics, Inc. to perform background ambient air clearances to measure asbestos fibers in the air and found them to be within acceptable limits. Micro-Analytics also tested the samples and reported that the floor tile contained no asbestos but the mastic contained 3% Chrysotile. On September 11, 2012, Company hired Pinnacle Environmental Group to properly dispose of the remaining mastic.

To fully address the violations of District Regulation 5.04 and 40 C.F.R. §61.145 alleged above, the parties agree to this Order to perform a Supplemental Environmental Project (SEP) for no less than \$15,000. On July 17, 2013, a public hearing was held before the Board on this proposed Order. Based upon the information presented at the hearing, the Board determines that the proposed resolution and requirements contained in this Order are reasonable under the circumstances.

NOW, THEREFORE BE IT ORDERED THAT:

1. Company agrees to perform the SEP included herein as Attachment A for no less than \$15,000.

2. Company hereby certifies that, as of July 17, 2013, it is not required to perform or develop the SEP by any federal, state, or local law or regulation; nor is it required to perform or develop the SEP by any other agreement, grant or as injunctive relief in this or any other case. Company further certifies that it has not received, and is not presently negotiating to receive credit in any other enforcement action for the SEP.

3. Company shall submit a SEP Completion Report to the District by July 31, 2014. The SEP Completion Report shall contain the following: (i) a detailed description of the SEP as implemented; (ii) itemized costs; and (iii) certification that the SEP has been fully implemented pursuant to the provisions of this agreement.

4. After receipt of the SEP Completion Report, the District will notify the Company in writing regarding (i) any deficiencies in the SEP report along with 30 additional days to correct any deficiencies; or (ii) indicate the project has been completed satisfactorily; or (iii) determine that the project has not been completed satisfactorily, at which time the District may seek to enforce assessed penalties.

5. Company has reviewed this Order and consents to all its requirements and terms. Company agrees to pay the cost of publishing legal notice of the public hearing.

6. This Order fully resolves the violations alleged in District Incident No. 06456, and as alleged above in this Order.

7. Neither this Order nor the actions taken hereunder shall constitute an admission by Company of any wrongdoing regarding any of the matters referenced in this Order.

Louisville Metro Air Pollution Control Board

Kosair Charities Committee, Inc.

By: Robert W. Powell
Robert W. Powell, M.D.
Chairman

By: Ronald L. Miller
Ronald L. Miller
Senior Vice President and
Chief Financial Officer

Date: July 17, 2013

Date: 7-12-13

Louisville Metro Air Pollution Control District

By: Terri Phelps
Terri Phelps
Enforcement Manager

Date: 7-12-13

Approved as to form and legality:

By: Stacy Fritze Dott
Stacy Fritze Dott
Assistant County Attorney

ATTACHMENT A

SUPPLEMENTAL ENVIRONMENTAL PROJECT PROPOSAL

Kosair Charities Committee Inc. proposes a Supplemental Environmental Project (SEP) that will provide a SEP credit against penalties being considered in Air Pollution Control Board (APCD or District) Notice 02473.

Background

Kosair Charities (KC) recently began certain renovation work for the purpose of converting previously unused space into a Pediatric Medical Clinic and a Pediatric Dental Clinic to be operated by the University of Louisville. During the construction process, certain areas were identified as potentially containing asbestos. In these areas, KC's General Contractor, Planning and Construction Associates, engaged subcontractor Micro-Analytics and certain other sub-contractors, to obtain the appropriate permits and to take the necessary eradication measures. However, during a routine inspection, the District inspector observed that asbestos-containing mastic had been disturbed. No assessment or permit had been obtained on this mastic.

Upon this discovery, Micro-Analytics was engaged to evaluate the impact of this disturbance. The results of the evaluation determined that only the mastic contained asbestos; the floor tile itself did not contain asbestos. Micro-Analytics further conducted background ambient air clearances, the results of which were within acceptable levels.

Following discussions with the District regarding this matter, KC engaged Micro-Analytics to conduct a complete assessment on the entire building that included the renovation areas. Micro-Analytics was later engaged to complete an assessment on all buildings located on the KC Centre Campus. Both reports have now been completed.

In lieu of any penalties associated with this event, KC proposes to assist in asbestos themed public awareness activities designed to help contractors and homeowners better understand the regulations, the assessment process, and steps that help prevent the disturbance of asbestos during reconstruction projects. While traditionally focused on the welfare of children, KC believes that through the efforts outlined below, the air quality for all of our citizens can be improved.

Project Scope

1. Informational Materials--Professionals

KC will design and print informational materials to include brochures, posters, etc. for public distribution and education concerning asbestos awareness and regulatory requirements. Given KC's focus on the medical needs and safety of children, the materials will be designed in a manner that provides meaningful information in a manner that is aligned with KC's interests.

The materials discussed here will be directed toward professional contractors and asbestos related professionals. Furthermore, the materials will be designed consistent with APCD publications and contain details of how to approach properties and equipment that may contain asbestos related materials, including the need for expert professionals in the initial assessment, the removal process, where applicable, and when to contact the APCD before disturbing any materials containing asbestos.

Excerpts from governmental regulations and/or appropriate references will also be contained in the materials further guiding the professionals in making proper and knowledgeable decisions in connection with routine maintenance or reconstruction activities.

2. Financial Support

At least 1,000 brochures directed at professionals will be distributed in numerous forums offered by Kosair Charities, including fairs, festivals, expos, and promotional booths, seminars (see item 3 below). The direct cost of these materials is estimated to approximate \$2,000 and will be entirely borne by KC.

The cost of booths and other related expenses will also be covered by KC. Given the nature of this awareness campaign, it may ultimately be necessary to acquire additional or larger booths to draw the proper attention to this important message; however at this time, no additional space is believed to be necessary. Specific events¹ in which the materials will be distributed include:

- Gaslight Festival (\$5,000 sponsorship²)
- St. Matthews Business Expo (\$1,000 sponsorship²)
- Middletown Festival (\$1,000 sponsorship²)

The specific value of connecting KC with the APCD in the booths/events is unable to be determined, however, APCD is obtaining public exposure without incurring the expense of a booth. A value has been estimated in EXHIBIT A.

KC will also provide financial the APCD support for additional materials that are needed in asbestos awareness campaigns, or for asbestos program implementation. This support will be provided as requested by the APCD up to \$2,500.

¹ Kosair Charities will submit a final proposal of specific events to the District 60 days following the Board's approval of the Agreed Board Order.

² Reflects the costs of Kosair Charities' booth in these events. At this time, no incremental booths are believed to be necessary to also promote asbestos awareness.

As the host of Educational Seminars (see Section 3 below), KC will provide light refreshments at an estimated cost of \$500 for each session. The total direct cost for the two seminars is estimated to be approximately \$1,000. Indirect costs are estimated in EXHIBIT A.

For a summary of all direct and estimated indirect costs (totaling just over \$15,000), please see EXHIBIT A.

3. Educational Seminars

KC is pleased to host in its "Community Room" at the Kosair Charities Centre Campus (982 Eastern Parkway, Louisville, KY), two educational seminars targeting professional contractors and asbestos professionals. The events will be marketed by KC through its networks, and in conjunction with other available databases to primarily reach HVAC and remodeling contractors. KC will invite key representatives from the APCD as well as Micro-Analytics to make presentations focusing on asbestos related requirements, the assessment process, and an overview of extraction measures for materials containing asbestos.

KC plans to host an event in both the July and November timeframes. KC will design and distribute an electronic or direct mail piece to promote each event with the goal of having 50 attendees for each session.

Both APCD and Micro-Analytics will be featured in the mailing as the presenters. Tentative dates and times follow:

- 9am November 15th or 22nd, 2013
- 9am July 2014³

4. Informational Materials—General Public

As discussed in Section 1, Kosair Charities (KC) will design and print informational materials to include brochures, posters, etc. In addition to the materials directed specifically toward professional contractors and asbestos related professionals, materials will also be designed targeting home owners and the general public, again emphasizing the need to inspect for asbestos and to take precautions when engaging in activities which could disturb asbestos. While some of the actions of homeowners may mirror those of the professional contractors, the marketing methods for disseminating the information can vary.

Excerpts from government regulations and/or appropriate references will also be contained in the materials further guiding the homeowner in making proper and knowledgeable decisions in connection with any reconstruction or remodeling activities in their homes.

³Kosair will submit a final proposal for the date of educational seminars no later than December 20, 2013.

EXHIBIT A

Estimated Costs Summary

Description	Category			Cost
Informational Materials	Professionals			1,000
	Homeowners			1,000
Invitations, postage, etc.	Professionals			250
Refreshments	Professionals	500	2	1,000
Booths (sharing value)	Gaslight	5,000	25%	1,250
	St. Matthews	1,000	25%	250
	Middletown	1,000	25%	250
APCD Support	Program Implementation			2,500
Event coordination; design & dissemination of materials (estimated daily/hourly value)				
> Community room rental value		2	\$ 300.00	600
> Design, proof, ordering brochures		40	\$ 35.62	1,425
> Invitations coordination, follow-up, confirmations		75	\$ 35.62	2,672
> Event time including hosting, food coordination		40	\$ 35.62	1,425
> Distribution at booths, expos, etc.		40	\$ 35.62	1,425
Total Estimated Costs				15,046

Public Awareness Schedule

Project Step	Category	Estimated Completion Date
Informational Materials	Design	Within 30 days of final District submission of material
	Acquisition	Within 60 days of APCD approval
	Distribution	Within 12 months of printing
Public awareness events (a)	Professionals - 1	November 2013
	Professionals - 2	July 2014
Booths (b)	Gaslight	September 2013
	St. Matthews	July 2014
	Middletown	September 2013
APCD Support	Program Implementation	Reimbursement within 30 days

Note a: Kosair will submit a final proposal for the dates of educational seminars no later than December 20, 2013.

Note b: Kosair will submit a final proposal of specific events no later than 60 days following the Board's approval of the Agreed Board Order.