

AGREED BOARD ORDER NO. 15-07

LOUISVILLE METRO AIR POLLUTION CONTROL BOARD

Incident Nos. 06743 and 06762

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 Brookside Properties Inc. (Company), a Tennessee corporation, and is effective on the date of its adoption by the Board.

COMPANY: Brookside Properties Inc.
2002 Richard Jones Road
Nashville, TN 37215

REGULATIONS INVOLVED:

District Regulation 2.03: Authorization to Construct or Operate; Demolition/Renovation Notices and Permit Requirements

District Regulation 5.04: Adoption of Federal Emission Standard for Asbestos

NOTICE OF VIOLATION LETTERS: No. 02625, dated September 2, 2015
No. 02629, dated October 21, 2015

BACKGROUND AND DISCUSSION:

Company managed a renovation project at Metropolitan Apartments located at 2612 Whitehall Terrace in Jefferson County, Kentucky. On April 27, 2015, the Louisville Metro Air Pollution Control District (District) received a complaint regarding improper removal of asbestos-containing material (ACM) at the facility and conducted an inspection. The District discovered demolition debris that contained suspect ACM and advised Company to cease all demolition activity until an asbestos survey could be performed. On May 8, 2015, the District received an asbestos survey conducted by Micro-Analytics Inc. that revealed that drywall stud mastic, sink mastic, and floor sheeting contained asbestos. Air samples taken by Micro-Analytics Inc. showed satisfactory results, and Pinnacle Environmental Group, Inc. was hired to clean-up the ACM, which was estimated at 2,042 square feet.

On August 27, 2015, during a follow-up inspection, the District observed additional renovation activities that had disturbed ACM were being conducted by a contractor's untrained workers, who were not using work practices to control asbestos emissions. The District informed Company it must stop renovating until the asbestos could be properly removed. The District later learned that Company's asbestos abatement contractor had submitted a revision to the permit, but had not included an asbestos survey or paid a fee, and no permit had been issued. Company's asbestos abatement contractor submitted a notification for the clean-up and a revised permit was issued to the contractor for the abatement on September 2, 2015.

The District alleges that Company failed to thoroughly inspect for the presence of asbestos before beginning demolition and renovation activities in nine apartment buildings, involving 152 separate apartment units; failed to obtain permits for renovation projects that disturbed ACM; and failed to notify the District at least ten days prior to beginning renovations.

To fully address the violations of District Regulations 2.03 and 5.04 alleged above, the parties agree to this Order assessing against Company an administrative settlement of \$41,250. On November 18, 2015, 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 shall pay \$41,250 to the Louisville Metro Air Pollution Control District in four monthly installments. Monthly payments of \$10,000 shall be due no later than November 18, 2015, December 18, 2015, January 18, 2016 and a final monthly payment of \$11,250 no later than February 18, 2016. If Company misses deadline on a payment, any remaining payments shall be accelerated and due immediately.

2. For all current and future building renovation projects being conducted by Company in Jefferson County, Company shall submit to District on the first business day of each week a report specifying all buildings in which Company will be working for the week.

3. 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.

4. In the event that it is necessary for the District to seek a court order to enforce this Order, Company agrees to pay filing fees and costs of such action.

5. This Order fully resolves the violations alleged in District Incident Nos. 06743 and 06762, and as alleged above in this Order against Company.

6. 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

Brookside Properties Inc.

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

By: William M. Warfield
William M. Warfield
President

Date: Nov 18, 2015

Date: _____

Louisville Metro Air Pollution Control District

By: Matt King
Matt King, P.E.
Compliance and Enforcement Manager

Date: 11/16/15

Approved as to form and legality:

By: Stacy Fritze Dott
Stacy Fritze Dott
Assistant County Attorney