Asbestos Enforcement: Tennessee Air Pollution Control Board Proposed Order and Assessment of Civil Penalty



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The Tennessee Air Pollution Control Board ("Board") issued a May 11th proposed Technical Secretary's Order and Assessment of Civil Penalty ("Order") to the Town of Selmer, Tennessee ("Selmer"). See Case No. APC21-0180.

Selmer is stated to be a municipality authorized to do business in the State of Tennessee.

Tennessee Division of Air Pollution Control ("Division") personnel are stated to have sent an outreach email on December 20, 2017, explaining the regulations concerning the demolition or renovation of buildings to Selmer's Building Inspector and Code Enforcement Officer. Division personnel are also stated to have sent an outreach letter on May 1, 2019, to Selmer's Mayor.

The letter is stated to have explained that:

. . . because the Town of Selmer's codes enforcement office may issue permits for demolition or renovation of buildings, the Division requested their assistance in making applicants aware of the asbestos inspection and notification requirements.

A Division inspector is stated to have conducted an inspection at a Facility on October 21, 2021, in response to a complaint. The Order states it was discovered that the building had been demolished and the demolition waste had been removed from the Facility.

The Division inspector is stated to have observed a remaining building slab that contained approximately 585 square feet of floor tile. A sample of the floor tile is stated to have been sent for a laboratory analysis. The floor tile is stated to have been in tact and in good condition.

The Division inspector is stated to have been informed by Selmer that the building had been condemned in order to be demolished. The property owner of the Facility did not demolish the building; instead, Selmer is stated to have hired a contractor to demolish the building.

Notification of demolition is stated to have not been provided to the Division prior to demolition activity, nor was an asbestos survey conducted prior to demolition. The Division received a Notification of Demolition and/or Asbestos Renovation on October 21, 2021.

The Division is stated to have received a copy of the Condemnation Notice on or about November 10, 2021, that had been served to the property owner of the facility by Selmer on August 27, 2020. The Division is also stated to have received a copy of the Order of the code Enforcement to Demolish the Facility that had been served to the property owner of the Facility by Selmer on October 7, 2020. The

Division received a copy of the final letter served on August 26, 2021, informing the property owner that due to inaction Selmer would proceed with the demolition of the Facility.

On November 11, 2021, the Division received laboratory analytical results indicating the floor tiles contained asbestos. The floor tile is considered a non-friable asbestos material.

Selmer is alleged to have failed to submit a Notification of Demolition and/or Asbestos Renovation and failed to thoroughly inspect for the presence of asbestos prior to the demolition activities at the Facility.

A civil penalty of $3,000 is assessed along with $11.50 in damages.

The Order provides Selmer certain appeal rights.

A copy of the Order can be downloaded here.