

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

NOV 12 2009

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

S.R. Restaurant Corporation
d.b.a. Rascal House Pizza
2064 Euclid Avenue
Cleveland, Ohio 44115

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Director's Final Findings
and Orders

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

By: Andy Lassiter Date: 11-12-09

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the S.R. Restaurant Corporation, d.b.a. Rascal House Pizza ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meanings as defined in ORC Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS

The Director of the Ohio EPA has determined the following findings:

1. Respondent was the "operator" of a renovation activity at 2064 Euclid Avenue in Cleveland as that term is defined in the Ohio Administrative Code ("OAC") Rule 3745-20-01(B) occurring at least in early March, 2007.
2. Respondent currently operates a restaurant known as Rascal House Pizza located at 2064 Euclid Avenue.
3. ORC Chapter 3704.05(G) states, in part, that no person shall violate any rule issued by the Director of Ohio EPA.

4. On March 2, 2007, the Cleveland Division of Air Quality ("CDAQ") received an anonymous complaint that Respondent was conducting a renovation of its 2064 Euclid Avenue business and may be exposing its customers to asbestos fibers.

5. On March 2, 2007, CDAQ inspected Respondent's restaurant in response to the above complaint. Upon arrival, CDAQ discovered that Respondent was renovating the building and had placed a large amount of debris in a dumpster located outside the building. CDAQ advised Respondent to cease renovation operations until a certified asbestos hazard evaluation specialist ("AHES") could determine whether asbestos-containing material was present.

6. On March 5, 2007, as the result of a complaint submitted to the United States Environmental Protection Agency, CDAQ again inspected the facility and discovered that Respondent had continued the renovation operation without having a survey completed by a certified AHES. As a result of the potential for Respondent to expose employees and patrons of the business to asbestos fibers, the City of Cleveland attorney's office issued a cease and desist letter to Respondent that ordered the restaurant be closed until the renovation/asbestos abatement could be completed by a certified AHES.

7. During the March 2 and 7, 2007 inspections, CDAQ collected samples of debris in the restaurant and also in the dumpster outside of the building. The samples indicated the presence of regulated asbestos-containing material ("RACM") in amounts that were determined to exceed the rule threshold amounts above which the full requirements of OAC Rules 3745-20-03, 3745-20-04, and 3745-20-05 apply. Respondent's actions during the renovation violated:

- OAC Rule 3745-20-03(A)(1) by conducting a renovation of its 2064 Euclid Avenue business without submitting a notification to Ohio EPA or CDAQ.
- OAC Rule 3745-20-02(A) by failing to conduct a thorough asbestos survey of the facility prior to conducting the renovation.
- OAC Rule 3745-20-04(A)(3) by failing to adequately wet regulated asbestos-containing waste materials when it was being stripped from facility components.
- OAC Rule 3745-20-04(B)(1)(b) by not having at least one authorized representative trained in asbestos removal present during the renovation.
- OAC Rule 3745-20-05(B) by allowing visible emissions to the outside air during the removal of asbestos-containing waste material.

8. On March 7, 2007, Cardinal Environmental Services, Inc. arrived on site to properly complete the asbestos abatement at the 2064 Euclid Avenue location.

9. On June 1 and June 27, 2007, CDAQ sent notices of violation ("NOVs") to Respondent for violations of OAC Chapter 3745-20. Respondent did not submit a response to either NOV.

10. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of ten thousand dollars (\$10,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Respondent shall comply with the following payment schedule for the civil penalty, which is payable to Ohio EPA:

Payment Deadline	Amount Due
within 30 days after the effective date of these Orders	\$1,250
within 120 days after the effective date of these Orders	\$1,250
within 210 days after the effective date of these Orders	\$1,250
within 300 days after the effective date of these Orders	\$1,250
within 390 days after the effective date of these Orders	\$1,250
within 480 days after the effective date of these Orders	\$1,250
within 570 days after the effective date of these Orders	\$1,250
within 660 days after the effective date of these Orders	\$1,250

The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

2. A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
50 West Town Street

Suite 700
P.O. Box 1049
Columbus, OH 43216 - 1049

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the valid official checks required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the Respondent's activities at the Facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

City of Cleveland
Division of Air Quality
1925 St. Clair Avenue
Cleveland, Ohio 44114
Attn: Mike Samec

and to:

Ohio Environmental Protection Agency

Lazarus Government Center
Division of Air Pollution Control
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: John Paulian

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

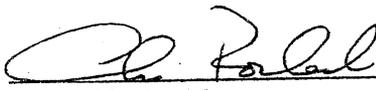
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

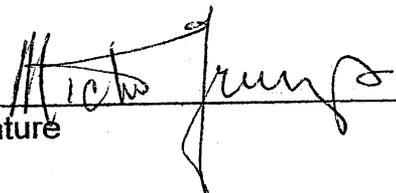


Chris Korleski
Director

11/9/09
Date

IT IS SO AGREED:

S.R. Restaurant, d.b.a. Rascal House Pizza



Signature

26 Oct 09
Date

Michael FRANGOS.
Printed or Typed Name

Pres.
Title