

FILED  
COMMON PLEAS COURT

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IN THE COURT OF COMMON PLEAS  
WAYNE COUNTY, OHIO

STATE OF OHIO, *ex rel.*,  
BETTY D. MONTGOMERY  
ATTORNEY GENERAL OF OHIO

CASE NO. 02-CV-0002

JUDGE ROBERT J. BROWN

Plaintiff,

vs.

WILLIAM A. LAWRENCE, et al.

Defendants.

: ORIGINAL

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CONSENT ORDER AND FINAL JUDGMENT ENTRY

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The Plaintiff State of Ohio, by its Attorney General ("Plaintiff" or "State of Ohio") and Defendants William A. Lawrence, Lucille A. Lawrence, the Lawrence Family Trust, the Sunny Family Trust II, the Sunny Family LTD Partnership I and Park Properties One ("Defendants Lawrence" or "Defendants"), hereby consent to the entry of this Consent Order in order to resolve the allegations in this matter as to Defendants Lawrence and pursuant to Chapter 6111 of the Ohio Revised Code ("R.C.").

**NOW THEREFORE**, without trial or admission of any issue of law or of fact, and upon the consent of the parties hereto, it is hereby **ORDERED, ADJUDGED** and **DECREED** as follows:

**I. DEFINITIONS**

As used in this Consent Order:

"**Consent Order**" means this Consent Order and Final Judgment Entry.

"**Contractor**" means the individual(s) or company or companies retained by or on behalf of Defendants to undertake and complete the work required by this Consent Order.

**“Defendants”** means William A. Lawrence, Lucille A. Lawrence, the Lawrence Family Trust, the Sunny Family Trust II, the Sunny Family LTD Partnership I and Park Properties One.

**“Director”** means Ohio's Director of Environmental Protection.

**“Disposal System”** means a system for disposing of sewage, sludge, sludge materials, industrial waste, or other wastes and includes sewerage systems and treatment works.

**“Effective Date”** means the date the Wayne County Court of Common Pleas enters this Consent Order.

**“Effluent”** means sewage or other wastewater, treated or untreated, that flows out of a disposal system, treatment plant, sewer, or industrial outfall, generally refers to wastewater discharged into surface waters.

**“Effluent Limitation”** means restrictions established by the State of Ohio in the NPDES permit on quantities, rates, and concentrations in wastewater discharges.

**“Glenridge Mobile Home Park”** means the track of land located at 10355 Lincolnway East, Orrville, Wayne County, Ohio upon which manufactured homes used for habitation are parked, either free of charge or for revenue purposes, and include any roadway, building, structure, vehicle or enclosure used or intended for use as a part of the facilities of the park.

**“NPDES”** means national pollutant discharge elimination system.

**“NPDES permit”** means the current national pollutant discharge elimination system permit and any renewals thereof.

**“Ohio EPA”** means Ohio Environmental Protection Agency.

**“Plaintiff”** means the State of Ohio by and through the Attorney General of Ohio.

**“Wastewater treatment plant”** or **“WWTP”** means a facility containing a series of tanks, screens, filter, and other processes by which pollutants are removed from water.

**“Sewerage system”** means pipelines or conduits, pumping stations, and force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting water borne

sewage, industrial waste, or other wastes to a point of disposal or treatment.

## **II. JURISDICTION AND VENUE**

The Court has jurisdiction over the Parties and the subject matter of this case pursuant to R.C. Chapter 6111. The Complaint states a claim upon which relief can be granted against Defendants Lawrence and venue is proper in this Court.

## **III. PARTIES AND NOTICE OF SALE**

2. The provisions of this Consent Order shall apply and be binding upon the Plaintiff and Defendants Lawrence, Defendants' agents, officers, employees, assigns, successors in interest, buyers and any person acting in concert or privity with any of them. Defendants Lawrence shall provide a copy of this Consent Order to each contractor and consultant he employs to perform the work itemized herein. Defendants Lawrence shall require each general contractor to provide a copy of this Consent Order to each of its subcontractors for such work.

3. Defendants Lawrence shall give thirty (30) days notice to Ohio EPA before he sells the Glenridge Mobile Home Park. In addition, Defendants Lawrence shall provide a copy of this Consent Order to any subsequent owner(s) or successor(s) prior to the transfer of Defendants' ownership rights.

4. Defendants Lawrence shall inform the Ohio EPA of any change of his business addresses or telephone numbers.

## **IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS**

5. Defendants Lawrence has operated the Glenridge Mobile Home Park wastewater treatment plant ("WWTP"), sewer system in such a manner as to result in

violations of the requirements of the National Pollution Discharge Elimination System (NPDES) Permit issued to him by Ohio Director of Environmental Protection Agency and in violation of the water pollution laws of the State of Ohio. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendants Lawrence for all claims of violations alleged in the Complaint alleged against Defendants Lawrence, including the claims for injunctive relief and civil penalties.

6. Nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to seek relief against other appropriate persons for claims or conditions alleged in the Complaint. Nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to seek relief against any Defendants or other appropriate persons for claims or conditions not alleged in the Complaint, including violations which occur or continue after the filing of the Complaint, nor shall anything in this Consent Order limit the right of any Defendants to any defenses it may have for such claims. Similarly, nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to undertake any action against any Defendants, to eliminate or mitigate conditions which may present a threat to the public health, welfare or the environment.

#### **V. PERMANENT INJUNCTION**

7. Defendants Lawrence are hereby permanently enjoined and immediately ordered to comply with the requirements of R.C. Chapter 6111 and the rules adopted thereunder, and the terms and conditions of currently effective NPDES Permit No. 3PV00092\*AD, and any renewals or modifications thereof. Defendants shall properly operate and maintain the Glenridge Mobile Home Park WWTP, sewer system and any

associated equipment and structures. All renewals, modifications or changes to Glenridge Mobile Home Park's NPDES Permit approved by the Director and/or effective after the entry of this Consent Order shall be deemed to be incorporated in full and made an enforceable part of this Consent Order.

## **VI. COMPLIANCE SCHEDULE**

8. Defendants are enjoined and ordered to complete construction of the improvements to their wastewater treatment plant in their approved General Plan and to attain compliance with the final effluent limitations of their current NPDES permit and any modifications or renewals thereof in accordance with the following schedule:

<b><u>TASK</u></b>	<b><u>COMPLETION DATE</u></b>
(a) Complete PTI application and submit approvable detail plans for plant and sewer system improvements.	June 15, 2003
(b) Advertise for construction bids.	September 15, 2003
(c) Commence construction.	November 15, 2003
(d) Complete construction.	February 15, 2004
(e) Attain and maintain compliance with final effluent limitations.	April 15, 2004
(f) Eliminate all overflows and bypasses.	June 15, 2004

Defendants Lawrence shall notify Ohio EPA's Northeast District Office, at the address listed in Section VII of this Consent Order, within seven (7) days of the initiation of construction. In addition, Defendants Lawrence shall notify the Northeast District Office within seven days after the completion of construction.

9. This Consent Order does not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing

treatment works or sewer system. Approval for any such construction or modification shall be by permit issued by the Director or other such permits as may be required by applicable federal, state, or local laws, rules or regulations.

#### **VII. REPORTING REQUIREMENT**

10. Within twenty (20) days from the completion date of each task listed in Section VI, Defendants Lawrence are ordered to submit a written report stating whether they have performed the actions set forth therein to the following address:

Ohio EPA  
Northeast District Office  
Division of Surface Water  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: Doug Hiestand or his successor.

Any Permit to Install ("PTI") or NPDES permit application(s), revision(s) or other reporting and/or review requirements of Section VI requiring Ohio EPA approval, consent or acceptance shall be sent to the same address and individual listed above.

#### **VIII. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS**

Performance with the terms of this Consent Order by Defendants Lawrence is not conditioned on the receipt of any federal or state grant, loan or funds. In addition, Defendants' performance is not excused by the failure to obtain or shortfall of any federal or state grant, loan or funds, or by the processing of any applications for the same.

#### **IX. CIVIL PENALTY**

12. Within forty-five (45) days of the effective date of this Consent Order, it is hereby ordered that Defendants Lawrence shall pay to the State of Ohio a civil penalty of Ten Thousand Dollars (\$10,000.00) for violation of R.C. Chapter 6111. The civil

penalty payment shall be paid by delivering a certified check for the appropriate amount, made payable to "Treasurer, State of Ohio," to Jena Suhadolnik, or her successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio, 43215-3400.

#### **X. STIPULATED PENALTIES**

13 In the event that Defendants Lawrence fail to comply with any requirement or deadline contained in Sections VI and/or VII of this Consent Order or any requirement or deadline contained in any document approved in accordance with this Consent Order, Defendants are liable for and shall pay stipulated penalties in accordance with the following schedule for each failure to comply:

- (a) For each day of each failure to comply with a requirement or deadline of Sections VI and/or VII of this Consent Order, up to and including thirty (30) days -- Two Hundred Fifty Dollars (\$250.00) per day for each requirement or deadline not met.
- (b) For each day of each failure to comply with a requirement or deadline of Sections VI and/or VII of this Consent Order, from thirty-one (31) to sixty (60) days -- Six Hundred Dollars (\$600.00) per day for each requirement or deadline not met.
- (c) For each day of each failure to comply with a requirement or deadline of Sections VI and/or VII of this Consent Order, over sixty (60) days -- Eight Hundred Fifty Dollars (\$850.00) per day for each requirement or deadline not met.

14. In the event that there is a violation of the effluent limitations established in Part I of the NPDES permit, Defendants Lawrence shall pay a stipulated penalty of one thousand and five hundred dollars (\$1,500.00) per day per effluent limitation violation. In addition, if there is an unauthorized discharge or bypass from any location in the

Glenridge Mobile Home Park WWTP or disposal system, except as otherwise provided by the NPDES permit Defendants Lawrence shall pay a stipulated penalty of one thousand and five hundred dollars (\$1,500) for each unauthorized discharge or by pass from any location.

15 If Defendants Lawrence fail to meet the requirements of Section IX, paragraph 12 of this Consent Order, Defendants Lawrence shall pay a stipulated penalty according to the following schedule:

- (1) For each day of each failure to meet a requirement of Section IX, paragraph 12 of this Consent Order up to thirty (30) days -- fifty dollars (\$50.00) per day per requirement not met;
- (2) For each day of each failure to meet a requirement of Section IX, paragraph 12 of this Consent Order from thirty-one (31) to sixty days (60) -- one hundred dollars (\$100.00) per day per requirement not met; and
- (3) For each day of each failure to meet a requirement of Section IX, paragraph 12 of this Consent Order over (61) days -- two hundred dollars (\$200.00) per day per requirement not met.

16. Except as provided above in paragraph 13, if Defendants Lawrence fail to comply with Defendants' NPDES permit terms or conditions, Defendants Lawrence shall pay a stipulated penalty according to the following schedule:

- (1) For each day of each failure to meet a requirement of this Consent Order and/or failure to comply with Defendants' NPDES permit term or condition up to thirty (30) days -- two-hundred-fifty dollars (\$250.00) per day per requirement not met;
- (2) For each day of each failure to meet a requirement of this Consent Order and/or failure to comply with Defendants' NPDES permit term or condition from thirty-one (31) to sixty days (60) -- five hundred

dollars (\$500.00) per day per requirement not met;  
and

- (3) For each day of each failure to meet a requirement of this Consent Order and/or failure to comply with Defendants' NPDES permit term or condition over (61) days -- seven hundred fifty dollars (\$750.00) per day per requirement not met.

17. Any payment required to be made under the provisions of Section X of this Consent Order shall be made by delivering to Jena Suhadolnik, or her successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio, 43215-3400, a certified check or checks, for the appropriate amounts within forty-five (45) days from the date of the failure to meet the requirement of this Consent Order, made payable to "Treasurer, State of Ohio." Defendants shall also state in writing the specific failure of the Consent Order and/or NPDES permit term and condition which was not complied with, and the date(s) of non-compliance. The payment of stipulated penalties by Defendants Lawrence and the acceptance of such stipulated penalties by Plaintiff for specific violations pursuant to Section X shall not be construed to limit Plaintiff's authority to seek additional relief or to otherwise seek judicial enforcement of this Consent Order.

#### **XI. MISCELLANEOUS**

18. Nothing in this Consent Order shall affect Defendants' obligation to comply with all applicable federal, state or local law, regulation, rule or ordinance. Defendants Lawrence shall obtain any and all federal, state, or local permits necessary to comply with this Consent Order.

## **XII. POTENTIAL FORCE MAJEURE**

19. If any event occurs which causes or may cause a delay in Defendants' compliance with any requirement of this Consent Order, Defendants Lawrence shall notify the Ohio EPA in writing within ten (10) days from when the Defendants knew, or by the exercise of due diligence should have known, of the event. The notification to Ohio EPA shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by the Defendants Lawrence to prevent or minimize the delay, and the timetable by which those measures will be implemented. Defendants shall adopt all reasonable measures to avoid or minimize any such delay.

20. In any action by the Plaintiff to enforce any of the provisions of this Consent Order, Defendants Lawrence may raise that they are entitled to a defense that their conduct was caused by reasons entirely beyond their control such as, by way of example and not limitations, acts of God, strikes, acts of war or civil disturbances. While the Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by Defendants Lawrence and the Plaintiff that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time, if ever, that a court proceeding to enforce this Consent Order is commenced by the Plaintiff. At that time, Defendants Lawrence will bear the burden of proving that any delay was or will be caused by circumstances entirely beyond the control of Defendants. Unanticipated or increased costs associated with the implementation of any action required by this Consent Order, or a change in Defendants' financial circumstances, shall not constitute circumstances

entirely beyond the control of Defendants Lawrence or serve as a basis for an extension of time under this Consent Order. Failure by Defendants to timely comply with the notice requirements of this Section shall render this Section void and of no force and effect as to the particular incident involved and shall constitute a waiver of Defendants' right to request an extension of its obligations under this Consent Order based on such incident. An extension of one date based on a particular incident does not mean that Defendants Lawrence qualifies for an extension of a subsequent date or dates. Defendants must make an individual showing of proof regarding each incremental step or other requirement for which an extension is sought. Acceptance of this Consent Order without a Force Majeure Clause does not constitute a waiver by Defendants of any rights or defenses it may have under applicable law.

### **XIII. RETENTION OF JURISDICTION**

21. The Court will retain jurisdiction of this action for the purpose of administering or enforcing Defendants compliance with this Consent Order.

### **XIV. COSTS**

22. Defendants Lawrence is hereby immediately ordered to pay the court costs of this action.

### **XV. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK**

23. The parties agree and acknowledge that final approval by the Plaintiff and Defendants, and entry of this Consent Order is subject to the requirement of 40 C.F.R. §123.27(d)(1)(iii), which provides for notice of the lodging of this Consent Order, opportunity for public comment, and the consideration of any public comment. The Plaintiff and Defendants reserve the right to withdraw consent to this Consent Order

based on comments received during the public comment period. Defendants Lawrence shall pay the cost of publishing the public notice within thirty (30) days of receipt of a bill or notice from Ohio EPA.

24. Upon the signing of this Consent Order by the Court, the clerk is hereby directed to enter it upon the journal. Within three (3) days of entering the judgment upon the journal, the clerk is hereby directed to serve upon all parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

**XVI. AUTHORITY TO ENTER INTO THE CONSENT ORDER**

25. Each signatory for a trust represents and warrants that he/she has been duly authorized as trustee and may sign this document and so bind the trust to all terms and conditions thereof and that he/she submits with this Consent Order an authenticated letter(s) of appointment from a probate court having jurisdiction of the subject matter of the trust.

**IT IS SO ORDERED:**



**ROBER J. BROWN, JUDGE  
WAYEN COUNTY  
COURT OF COMMON PLEAS**

1/2/03  
**DATE**

**COPY TO ALL COUNSEL**

**MAILED**  
Regular Massey, Lawrence, Reis  
Certified \_\_\_\_\_  
Placed in box \_\_\_\_\_  
By P. Junkin  
Dep. Clerk

**JOURNALIZED**

**JAN - 3 2003**

**CAROL W. MILLHOAN, CLERK  
WAYNE COUNTY, OHIO**

**APPROVED:**

**BETTY D. MONTGOMERY  
ATTORNEY GENERAL OF OHIO**

By:

 12/20/02

**LORI A. MASSEY (0047226)  
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Environmental Enforcement Section  
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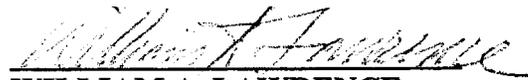
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Attorneys for State of Ohio

**LAWRENCE FAMILY TRUST  
SUNNY FAMILY TRUST II**

**SUNNY FAMILY LTD PARTNERSHIP I  
PARK PROPERTIES ONE**

By:



**WILLIAM A. LAWRENCE**  
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