

A. Conway

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

APR -4 2006

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Southern View Condominiums
1752 Kingwood Court
Ashland, Ohio 44805

Director's Final Findings
and Orders

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Southern View Condominiums ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in the ownership or composition of Respondent or the ownership or operation of the Facility or Site (defined below) 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 meaning as defined in ORC Chapter 6111., and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the developer of the Gables of Lexington, Phases 1 and 1A, ("Facility" or "Site"), a residential development located along SR 42 in Troy Township, the Village of Lexington, Richland County, wherein Site construction disturbs more than one (1) acre of land.
2. Ohio Administrative Code ("OAC") Rule 3745-42-02 provides that no person shall cause, permit or allow the installation of a new disposal system or cause, permit or allow the modification of a disposal system, without first obtaining a permit to install ("PTI") or plan approval from the Director. The term disposal system is defined in ORC § 6111.01(G).

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

 Date 4-4-06

3. ORC § 6111.07(A) prohibits any person from violating, or failing to perform any duty imposed by ORC §§ 6111.01 to 6111.08, or violating any order, rule, or term or condition of a permit issued or adopted by the Director pursuant to those sections, including OAC Rule 3745-42-02. Each day of violation is a separate offense.
4. PTI Application No. 03-16532, together with detailed plans, was received at Ohio EPA, Northwest District Office, on October 26, 2004, for the installation of a sanitary sewer extension to serve the Facility.
5. The sanitary sewer extension proposed in PTI Application No. 03-16532 is a "disposal system," as such term is defined in ORC § 6111.01 (G).
6. On November 2, 2004, Ohio EPA conducted an inspection at the Facility, which inspection confirmed that the installation of the sanitary sewer extension was completed prior to the approval of plans and issuance of a PTI by Ohio EPA.
7. By letter dated November 22, 2004, Respondent was notified that its installation of the sanitary sewer extension was in violation of ORC Chapter 6111., and OAC Chapter 3745-42.
8. PTI Application No. 03-16532 was issued on March 29, 2005.
9. Notices of Intent ("NOIs") for coverage under the Ohio EPA National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity ("Ohio NPDES Storm Water General Permit"), for Phases 1 and 1A were received by Ohio EPA, with coverages granted under Permits Nos. 2GC00624*AG and 2GC00686*AG, on October 14, 2004 and December 6, 2004, respectively.
10. Part III.B of the Ohio NPDES Storm Water General Permit requires that a storm water pollution prevention plan ("SWP3") be completed prior to the timely submittal of an NOI and updated in accordance with Part III.D. The SWP3 must be implemented upon initiation of construction activities at the Site.
11. On November 2, 2004, an inspection of the Facility was conducted by Ohio EPA, which inspection confirmed that construction activities at the Site had commenced prior to the completing and implementing a SWP3, in violation of ORC § 6111.07.
12. By letter dated November 22, 2004, Respondent was notified that the construction activities occurring at the Site were in violation of ORC Chapter 6111, with deficiencies of the SWP3 identified and discussed.
13. In a letter dated April 19, 2005, Ohio EPA informed Respondent that after a review of the SWP3 submitted on February 4, 2005, deficiencies remain.

14. Inspections on May 5 and June 24, 2005 evidenced nonconformance with the post-construction requirements of the Ohio NPDES Storm Water General Permit.
15. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

1. Respondent shall not install sewerage or treatment works for sewage disposal or new disposal systems, including, but not limited to, sanitary sewer extensions, at any location in Ohio without first receiving prior approval from the Director as required by law. Respondent may request termination of this Order upon a demonstration to the satisfaction of Ohio EPA that Respondent has maintained compliance with this Order for a period of three hundred and sixty five (365) days from the effective date of these Orders. Such a request for termination shall be submitted in accordance with Section VI. of these Orders.
2. Respondent shall not initiate construction activities that disturb more than one (1) acre of land without having first developed and implemented a SWP3. Respondent may request termination of this Order upon a demonstration to the satisfaction of Ohio EPA that Respondent has maintained compliance with this Order for a period of three hundred and sixty five (365) days from the effective date of these Orders. Such a request for termination shall be submitted in accordance with Section VI. of these Orders.
3. Within fourteen (14) days of the effective date of these Orders, Respondent shall develop and implement a current SWP3 for the Site. Respondent shall submit a copy of the SWP3, to Ohio EPA, Northwest District Office, in accordance with Section X. of these Orders.
4. From the effective date of these Orders and until all disturbed areas on the Site meet the criteria for final stabilization as outlined in the Ohio NPDES Storm Water General Permit, Respondent shall comply with the SWP3 and/or any future amendments to the SWP3, in accordance with Part III.D of the Ohio NPDES Storm Water General Permit.
5. Within fourteen (14) days of the effective date of these Orders, Respondent shall comply and maintain compliance with the provisions of the Ohio NPDES Storm Water General Permit, including, but not limited to, requirements addressing settlement basins and post-construction activities.

6. Construction activity shall not take place in areas to which coverage under the Ohio NPDES Storm Water General Permit has not been obtained.
7. Respondent shall pay to the Ohio EPA the amount of four thousand seven hundred sixty dollars (\$4,760) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Within forty-five (45) days of the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent.

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 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 hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

Unless otherwise directed herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Attn: Enforcement Supervisor, Division of Surface Water
347 North Dunbridge Road
P.O. Box 466
Bowling Green, Ohio 43402

XI. RESERVATION OF RIGHTS

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

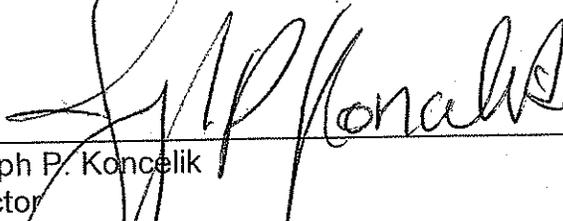
XII. EFFECTIVE DATE

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

XIII. SIGNATORY AUTHORITY

Each undersigned representative or 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.

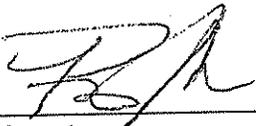
**IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency**



Joseph P. Koncelik
Director

Date 4/23/06

**IT IS SO AGREED:
Southern View Condominiums**



Signature

Date 3/21/06

Brian J Rowe

Printed or Typed Name

V.P.

Title