BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Pleasantview Real Estate Company dba Legacy Health Services
7377 Ridge Road
Parma, Ohio 44129

Respondent

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Pleasantview Real Estate Company dba Legacy Health Services ("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 composition of Respondent 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 Chapters 6111 and 3745, and the rules promulgated thereunder.

IV. FINDINGS

1. Respondent owns and operates Pleasantview Care Center, a short-term rehabilitation facility, and Legacy Place Parma, a full service assisted living facility, both located at 7377 Ridge Road, Parma, Cuyahoga County, Ohio (the "Site"). The Site has its own private lift station.

2. On September 5, 2019, Ohio EPA's Office of Emergency Response ("OER") became aware of a sewage discharge and odor in Big Creek after a complaint was received.

3. Big Creek is considered to be "waters of the state" as defined by R.C. Section 6111.01.
4. OER responded to the release the same day and observed ongoing sewage discharge to Big Creek from the Site’s failed lift station. OER observed staining on the ground surrounding the lift station, with ongoing direct discharge seeping from holes within the walls of the lift station. Impacts to Big Creek extended over 200 feet with the volume of sewage released unknown, but the presence of sewage fungus indicated this was a chronic discharge.

5. The discoloration, odor, and sewage sludge accumulation in Big Creek constitutes a violation of the “criteria applicable to all waters” as set forth in Ohio Administrative Code (“OAC”) Section 3745-1-04, in which general water quality criteria shall apply to all surface waters of the state including mixing zones.

6. During discussion with the contractor at the Site, it was discovered that Respondent became aware of the release on September 4, 2019, after which the contractor was hired to pump sewage from the lift station to transport to a Northeast Ohio Regional Sewer District (“NEORSD”) treatment facility for disposal.

7. Based on OER’s observations and further communication with the contractor at the Site, it was determined that the lift station at the Site had not been in proper working condition for approximately three months.

8. OER issued Respondent a Notice of Violation (“NOV”) on September 5, 2019 for the discharge of raw sewage, and requesting that Respondent: immediately terminate the release of raw sewage to prevent further impacts to Big Creek; complete corrective actions/equipment repair to prevent future sewage releases; complete cleanup of the visible sewage impacts within Big Creek; and, properly dispose of all generated wastes.

9. Respondent received approval from NEORSD and the City of Parma to setup temporary pumping measures to direct the sewage to the City of Parma’s sanitary sewer manhole.

10. On September 6, 2019, Respondent had temporary pumping operations in place, along with a backup pump, and a contractor completed the sewage clean up from Big Creek. Ongoing sewage discharge ceased once temporary pumping measures were in place. OER transferred the incident to the Ohio EPA Division of Surface Water (“DSW”) to oversee repairs to the lift station and further evaluation of Big Creek.
11. On September 9, 2019, Ohio EPA DSW contacted Respondent to confirm the lift station repairs would not require approval via a Permit to Install ("PTI"). Weekly inspections were also conducted by Ohio EPA to ensure all discharges to Big Creek had ceased, temporary pumping measures were in place, and all impacts to the creek were resolved.

12. On October 16, 2019, the plumbing contractor for the Site began installing the new equipment for the permanent repair of the lift station. All discharge points from the lift station were sealed, new pump lines and valves were installed, and the contractor confirmed there were no cross connections. The installation and repair work were completed on October 18, 2019.

13. On October 23, 2019, Respondent sent email notification to Ohio EPA of the completed repairs after an update was requested. Respondent provided invoices and a letter from the plumbing contractor detailing the installation and repair work completed on the lift station.

14. ORC Section 6111.04(A) prohibits any person from causing pollution or causing any sewage, industrial waste, or other waste to be placed in any location where they cause pollution to waters of the state, except if such discharges occur in accordance with a valid, unexpired NPDES permit issued by the Director or if an application for renewal of such permit is pending.

15. Pursuant to Ohio Administrative Code ("OAC") Section 3745-33-02(A), no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant without applying for and obtaining an Ohio NPDES permit in accordance with the requirements of this chapter.

16. The Director has given consideration to, and based her 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 purpose of ORC Chapter 6111.

V. ORDERS

1. Respondent shall continue to implement measures to prevent future sewage discharges to the extent possible. If a discharge should occur and reaches waters of the state, Respondent shall notify Ohio EPA upon discovery of the release.
2. Respondent shall pay the amount of two thousand five hundred dollars ($2,500) in settlement of Ohio EPA’s claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to: “Treasurer, State of Ohio”. The official check shall be submitted to Carol Butler, or her successor, together with a letter identify the Respondent, to:

Office of Fiscal Administration  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43216-1049

A copy of the check shall be sent to the Environmental Manager, Enforcement Section, or his successor, at the following address:

Division of Surface Water  
Ohio Environmental Protection Agency  
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 the Chief of 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 the Respondent. For purposes of these Orders, a responsible official is defined in OAC Rule 3745-33-03(F).
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 activities occurring on or at the site.

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

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

Ohio Environmental Protection Agency
Northeast District Office
Division of Surface Water
ATTN: DSW Enforcement Unit Supervisor
2110 E. Aurora Road
Twinsburg, Ohio 44087

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 or 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

Laurie A. Stevenson, Director

Date

IT IS SO AGREED:

Pleasantview Real Estate Company dba Legacy Health Services

Signature

Date

Printed or Typed Name

Title