

FILED
IN THE COURT OF COMMON PLEAS
LAKE COUNTY, OHIO

JAN 6 10 34 AM '97

CASE NO. 97CN000012

STATE OF OHIO EX REL.
BETTY D. MONTGOMERY,
ATTORNEY GENERAL OF OHIO

JUDGE _____

ASSIGNED TO
JUDGE [unclear]

PLAINTIFF,

V.

CONSENT ORDER

CHELMSFORD PROPERTIES, INC.

DEFENDANT.

Plaintiff, State of Ohio, by its Attorney General, Betty D. Montgomery ("Plaintiff"), having filed the Complaint against Defendant Chelmsford Properties, Inc. ("hereinafter Defendant") to enforce Ohio's asbestos handling and air pollution control laws set forth in Ohio Revised Code ("O.R.C.") Chapter 3704. and the rules adopted thereunder, and the parties having consented to the entry of this Consent Order,

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. JURISDICTION AND VENUE

1. The Court has jurisdiction over the parties and the subject matter of this action, pursuant to O.R.C. Chapter 3704. and the regulations adopted thereunder. The Complaint states a claim upon which relief can be granted against

D

to relieve the Defendant of its obligation to comply with applicable federal, state or local statutes, regulations or ordinances.

IV. PERMANENT INJUNCTION

4. Defendant is hereby enjoined and ordered to immediately and permanently comply with O.R.C. Chapter 3704. and the regulations adopted thereunder, including but not limited to Ohio Administrative Code ("O.A.C.") Chapter 3745-20. Specifically, but not in any way limiting the scope of this paragraph, Defendant agrees to and is hereby permanently enjoined to:

- a.) submit timely and complete notifications of intent to engage in demolition and renovation operations to the proper authority, as required by O.A.C. Rules 3745-20-02 and -03(A);
- b.) remove friable asbestos materials before commencing any wrecking or demolishing of a facility, as required by O.A.C. Rule 3745-20-04(A)(1);
- c.) properly handle and adequately wet friable asbestos materials and facility components covered with, coated by or containing such materials, while being removed, cut, disjointed, stripped or otherwise taken out of a facility, as required by O.A.C. Rule 3745-20-04(A)(2), (A)(3), (A)(4) and (A)(5);
- d.) seal all friable asbestos-containing waste material into properly labelled, durable, leak-tight containers, as required by O.A.C. Rule 3745-20-05(C);

V. CIVIL PENALTY

5. For violations of O.R.C. Chapter 3704. and the regulations adopted thereunder, Defendant is enjoined and ordered to pay to the State of Ohio a civil penalty in the amount of Eighteen Thousand Dollars (\$18,000.00). The civil penalty shall be paid in accordance with the following schedule:

- a. Six Thousand Dollars due on or before December 13, 1996;

- c. Two Thousand Dollars due on or before January 10, 1997;
- d. Two Thousand Dollars due on or before February 14, 1997;
- e. Two Thousand Dollars due on or before March 14, 1997;
- f. Two Thousand Dollars due on or before April 11, 1997;
- g. Two Thousand Dollars due on or before May 9, 1997;
- h. Two Thousand Dollars due on or before June 13, 1997.

The civil penalty shall be paid by Defendant by its delivering to Plaintiff, c/o Matt Sanders, Administrative Assistant, or his successor, at the office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, certified checks in their respective amounts, payable to the order of "Treasurer, State of Ohio," to be received by the State on or before their respective due dates. In the event the Attorney General's Office does not receive an installment payment in full on or before any one of the due dates listed above, then Defendant is enjoined and Ordered to pay the entire balance due of the civil penalty immediately upon default.

VI. STIPULATED PENALTIES

6. In the event that Defendant fails to comply with any of the requirements imposed by paragraph 4 of this Consent Order, the Defendant shall, immediately and automatically, be liable for and shall pay a stipulated penalty in accordance with the following schedule:

- a.) for each violation of paragraph 4, Two Thousand Dollars (\$2,000.00) per day per violation;

b.) for each violation of paragraph 4 (a), Fifteen Thousand Dollars (\$15,000.00) per violation;

c.) for each violation of paragraphs 4 (b) through 4 (d), Five Thousand Dollars (\$5,000.00) per day per violation.

7. In the event that Defendant fails to meet any of the requirements of this Consent Order, the Defendant shall immediately and automatically be liable for payment of stipulated penalties imposed by this Order without prior demand by the State of Ohio. Payment of all stipulated penalties shall be paid by Defendant by its delivering to Plaintiff, c/o Matt Sanders, Administrative Assistant, or his successor, at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, a certified check in that amount, payable to the order of "Treasurer, State of Ohio," immediately upon the occurrence of the violation giving rise to the penalty.

8. The imposition, payment and collection of stipulated penalties pursuant to violations of this Consent Order shall not prevent the State from pursuing additional remedies, civil, criminal or administrative, for violations of applicable laws.

VII. COMPLIANCE WITH APPLICABLE LAWS, PERMITS AND APPROVALS

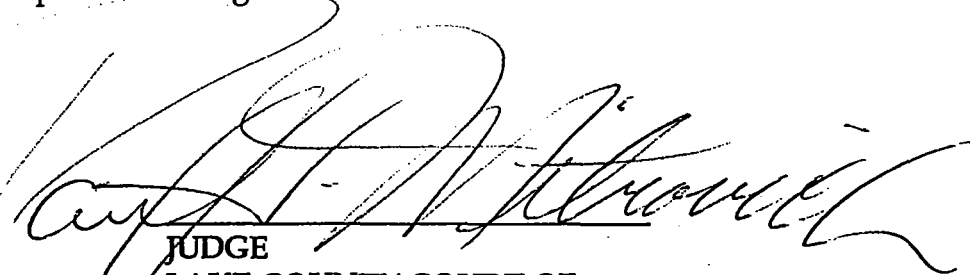
9. All activities undertaken by Defendant pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable federal and state and local laws, rules and regulations, licenses and permits. Defendant is ordered and enjoined to obtain all licenses, permits or approvals necessary under

XI. AUTHORITY TO ENTER INTO THE CONSENT ORDER

13. Each signatory for Defendant represents and warrants that he/she has been duly authorized to sign this document and so bind the corporation to all terms and conditions thereof. Each signatory for Defendant shall submit with this Consent Order an authenticated and certified resolution from Defendant establishing that he/she is so empowered to sign for and bind Defendant.

IT IS SO ORDERED,

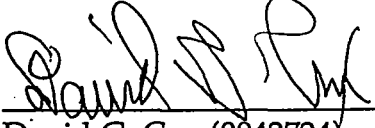
DATE 11/6/97




JUDGE
LAKE COUNTY COURT OF
COMMON PLEAS

APPROVED:

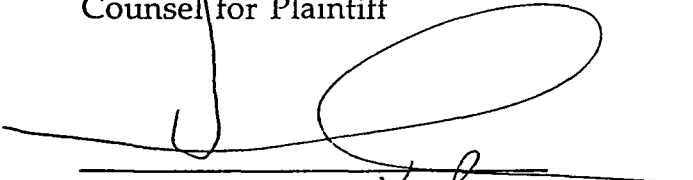
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO



David G. Cox (0042724)
Assistant Attorney General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3428
(614) 466-2766
Counsel for Plaintiff



Amelia A. Bower (0013474)
19111 Detroit Road
Suite 306
Rocky River, Ohio 44116
Counsel for Defendant



Joseph Urbanick
Authorized Representative of Defendant
Chelmsford Properties, Inc.