



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

OFFICE OF
THE REGIONAL ADMINISTRATOR

BY FEDERAL EXPRESS

March 30, 2009

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Michael J. Sullivan, U.S. Attorney
Office of the United States Attorney
District of Massachusetts
John Moakley U.S. Federal Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210

Re: Referral Regarding Petition to Enforce TSCA Subpoena Against John C. Jones
(Roxbury, Massachusetts)

Dear Mr. Sullivan:

By this referral, the U.S. Environmental Protection Agency, Region 1 ("EPA") seeks enforcement of a subpoena issued under Section 11 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2610, to John C. Jones, a landlord in Roxbury, Massachusetts. EPA has issued a subpoena to Mr. Jones requesting documents and information necessary to evaluate Mr. Jones's compliance with TSCA and its implementing regulations, including the Real Estate Notification and Disclosure Rule at 40 C.F.R. Part 745, Subpart F (the "Disclosure Rule"), and the Pre-Renovation Education Rule at 40 C.F.R. Part 745, Subpart E ("Pre-Renovation Rule"). The Disclosure Rule was promulgated pursuant to Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d. The Pre-Renovation Rule was promulgated pursuant to Section 406(b) of TSCA, 15 U.S.C. § 2686(b). Failure to comply with the Disclosure Rule or the Pre-Renovation Rule is a prohibited act under TSCA Section 409, 15 U.S.C. § 2689.

Mr. Jones owns five properties with at least fifteen housing units in Roxbury and Dorchester, Massachusetts. The properties were built between 1880 and 1905. Most of these units are low-income housing, subsidized with Section 8 vouchers. On March 25, 2008, EPA inspectors met with Mr. Jones to evaluate his compliance with EPA's lead paint regulations. See inspection report and pre-inspection letters, Attachment A. Because Mr. Jones did not have all the required documents with him during the inspection, EPA requested that, by April 23, 2008, he provide EPA with copies of seven leases from the last two years and all records and reports pertaining to the presence of lead hazards in the properties. EPA inspectors telephoned Mr. Jones at least three times when no response was received. See telephone notes, Attachment B. When these telephone calls failed to elicit a response, EPA issued a TSCA Subpoena [no. TSCA-

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Michael J. Sullivan, United States Attorney
District of Massachusetts
U.S. v. John C. Jones

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SP-2008-077] ("Subpoena") to Mr. Jones on August 13, 2008, by certified mail, return receipt requested. *See Attachment C.* Mr. Jones failed to respond to the Subpoena.

On October 24, 2008, EPA issued a letter to Mr. Jones entitled *Notice of Noncompliance and Potential for Further Enforcement - TSCA Subpoena No. TSCA-SP-2008-077* ("Notice"). *See Attachment D.* The Notice formally notified Mr. Jones that his continued failure to respond to the Subpoena would likely result in further enforcement to compel a response. To date, Mr. Jones has not responded to the Subpoena, although EPA has return receipt cards indicating that he received both the Subpoena and the Notice.

Enclosed you will find copies of the above-referenced supporting documents. You will also find a draft petition to enforce the Subpoena. *See Attachment E.* The contacts for this matter are EPA Region 1 Senior Enforcement Counsel, Catherine Smith, who may be reached at (617) 918-1777, and Environmental Scientist, Ronnie Levin, who may be reached at (617) 918-1716. Thank you for your assistance in this matter.

Sincerely,



Ira W. Leighton
Acting Regional Administrator

Attachments:

- A. Inspection report and pre-inspection letters
- B. Telephone notes
- C. EPA's TSCA Subpoena [No. TSCA-SP-2008-077], dated August 13, 2008, and a copy of the return receipt card, postmarked September 19, 2008
- D. EPA's *Notice of Noncompliance and Potential for Further Enforcement*, dated October 24, 2008, and a copy of the return receipt card, postmarked November 3, 2008
- E. Draft *Petition for Enforcement of a Toxic Substances Control Act Subpoena*