



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
SEP 06 2012

REPLY TO THE ATTENTION OF:

L-8J

CERTIFIED MAIL

Receipt No. 7009 1680 000 7667 8780

Mr. Clinton T. Anderson
Owner
CTA Properties
333 North Randall Road
St. Charles, Illinois 60174

Re: In the Matter of CTA Properties, Docket No: **TSCA-05-2012-0018**

Dear Mr. Anderson:

I have enclosed a complaint filed by the U.S. Environmental Protection Agency, Region 5 against CTA Properties under Section 16(a) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a). The complaint alleges violations of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4851 et seq.

As provided in the complaint, if you would like to request a hearing, you must do so in your answer to the complaint. Please note that if you do not file an answer with the Regional Hearing Clerk (E-19J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604 within 30 days of your receipt of this complaint, a default order may be issued and the proposed civil penalty will become due 30 days later.

In addition, whether or not you request a hearing, you may request an informal settlement conference. To request a conference, or if you have any questions about this matter, you may contact Jeffery Trevino, Associate Regional Counsel at (312) 886-6729.

Sincerely,

A handwritten signature in black ink, appearing to read "Margaret M. Guerriero".

Margaret M. Guerriero
Director
Land and Chemicals Division

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

) Docket No. TSCA-05-2012-0018
)

Clinton T. Anderson, Owner
CTA Properties
St. Charles, Illinois

RECEIVED
SEP 06 2012

) Proceeding to Assess a Civil Penalty
) Under Section 16(a) of the Toxic Substances
) Control Act, 15 U.S.C. § 2615(a)

Respondent,

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Complaint

1. This is an administrative proceeding to assess a civil penalty under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).
2. The Complainant is, by lawful delegation, the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is Clinton T. Anderson, Proprietor, CTA Properties, with a place of business at 333 North Randall Road, St. Charles, Illinois 60174.

Statutory and Regulatory Background

4. In promulgating the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act), at 42 U.S.C. § 4851, *et seq.*, Congress found, among other things, that low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under the age of 6; at low levels, lead poisoning in children causes intelligence deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems; and the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children. Key

components of the national strategy to reduce and eliminate the threat of childhood lead poisoning are mandatory disclosure and notification requirements for residential rentals and sales. Section 1018 of the Act, 42 U.S.C. § 4852d, requires the Administrator of EPA to promulgate regulations for the disclosure of lead-based paint hazards in target housing which is offered for sale or lease.

5. EPA promulgated regulations codified at 40 C.F.R. Part 745, Subpart F, Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property (Disclosure Rule) pursuant to 42 U.S.C. § 4852d. Owners of more than four residential dwellings were required to comply with the Disclosure Rule by September 6, 1996, pursuant to 40 C.F.R. § 745.102(a).

6. The Disclosure Rule implements the provisions of 42 U.S.C. § 4852d which impose certain requirements on the sale or lease of target housing. 40 C.F.R. § 745.100.

7. 40 C.F.R. § 745.103 defines "target housing" as any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

8. 40 C.F.R. § 745.103 defines "lessor" as any entity that offers target housing for lease, rent, or sublease, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

9. 40 C.F.R. § 745.103 defines "lessee" as any entity that enters into an agreement to lease, rent or sublease target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

10. 40 C.F.R. § 745.100 requires, among other things, that the seller or lessor of target housing complete the required disclosure activities before a purchaser or lessee is obligated under any contract to purchase or lease target housing.

11. Each contract to lease target housing must include, as an attachment or within the contract, a Lead Warning Statement with the specific regulatory language cited in 40 C.F.R. § 745.113(b)(1); a statement by the lessor disclosing the presence of any known lead-based paint and/or lead-based paint hazards in the target housing with any additional supporting information available, or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards (40 C.F.R. § 745.113(b)(2)); a list of any records or reports available to the lessor that have been provided to the lessee regarding lead-based paint and/or lead-based paint hazards in the target housing or a statement that no such records are available (40 C.F.R. § 745.113(b)(3)); a statement by the lessee affirming receipt of the information required by 40 C.F.R. § 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696 (40 C.F.R. § 745.113(b)(4)); and signatures and dates of signatures of the lessor and lessee certifying the accuracy of their statements to the best of their knowledge (40 C.F.R. § 745.113(b)(6)).

12. Under 42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.118(e), failing or refusing to comply with the Disclosure Rule violates Section 409 of TSCA, 15 U.S.C. § 2689, which may subject the violator to administrative civil penalties under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), 42 U.S.C. § 4852d(b)(5), and 40 C.F.R. § 745.118(f).

13. The Administrator of EPA may assess a civil penalty of up to \$11,000 for each violation of Section 409 of TSCA that occurred after March 15, 2004 through January 12, 2009,

and may assess a civil penalty of up to \$16,000 for each violation of Section 409 of TSCA that occurred after January 12, 2009, pursuant to 42 U.S.C. § 4852d(b)(5), 15 U.S.C. § 2615(a), and 40 C.F.R. Part 19.

General Allegations

14. Complainant incorporates paragraphs 1 through 13 of this Complaint as if set forth in this paragraph.

15. Between August 15, 2007, and August 15, 2009, Respondent owned residential apartment buildings at the following addresses in St. Charles, Illinois: 221 South 3rd Street, Unit A; 219 North 4th Street, Upper Unit; 221 North 4th Street, Upper Unit; 219 North 4th Street, Lower Unit; 219 North 4th Street, Rear Unit; 120 North 4th Street, Unit B; 221 North 4th Street, Lower Unit; and, 219 North 4th Street, Lower Unit (Respondent's Properties).

16. Respondent's Properties and each apartment unit within Respondent's Properties are Residential Dwellings," as defined in 40 C.F.R. § 745.103.

17. The Residential Dwellings were constructed prior to 1978.

18. Therefore, the Residential Dwellings were "target housing," as defined in 40 C.F.R. § 745.103.

19. Respondent owned the target housing between August 15, 2007, and August 15, 2009.

20. On August 6, 2010, Complainant sent an Information Request Letter to Respondent, seeking, among other things, copies of all rental agreements and lead-based paint disclosure documentation for rental transactions at residential dwellings owned by Respondent.

21. On the following date(s), Respondent, either directly or through his authorized agent, contracted in writing to lease to individuals the specific target housing on the specific dates as follows:

Address	Unit No.	Date of Lease
219 North 4 th Street, St. Charles, Illinois	Upper	January 31, 2008
221 North 4 th Street, St. Charles, Illinois	Upper	February 7, 2008
219 North 4 th Street, St. Charles, Illinois	Lower	February 19, 2008
219 North 4 th Street, St. Charles, Illinois	Rear	December 5, 2008
120 North 4 th Street, St. Charles, Illinois	B	May 3, 2009
221 North 4 th Street, St. Charles, Illinois	Lower	August 1, 2009
219 North 4 th Street, St. Charles, Illinois	Lower	August 15, 2009

22. Each of these contracts to lease covered a term of occupancy greater than 100 days.

23. Therefore, Respondent was a “lessor,” as defined in 40 C.F.R. § 745.103.

24. Therefore, each individual who signed a contract to lease to pay rent in exchange for occupancy of one of the Residential Dwellings was a “lessee,” as defined in 40 C.F.R. § 745.103.

25. On August 12, 2011, EPA advised Respondent by letter (Pre-Filing Notice Letter) that it planned to file a civil administrative complaint against Respondent for alleged violations of Section 1018 of the Act, 42 U.S.C. § 4852d, and that the complaint would seek a civil penalty. EPA asked Respondent to identify any factors Respondent thought EPA should consider before issuing the complaint. EPA asked Respondent to submit specific financial documents if Respondent believed there were financial factors which bore on Respondent’s ability to pay a proposed civil penalty.

26. On August 15, 2011, Respondent received the Pre-Filing Notice Letter.

27. On March 15, 2012, Respondent received the results of a lead-based paint inspection conducted in a six-unit building he owns. It was determined that several units did not contain lead-based paint hazards.

28. Complainant considered all of the information provided by Respondent in assessing

the alleged violations and proposing a penalty.

Counts 1 through 7

29. Complainant incorporates paragraphs 1 through 28 of this Complaint as if set forth in this paragraph.

30. **Count 1**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated January 31, 2008, for 219 North 4th Street, Upper Unit, St. Charles, Illinois, a Lead Warning Statement as set out in 40 C.F.R. § 745.113(b)(1).

31. **Count 2**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated February 7, 2008, for 221 North 4th Street, Upper Unit, St. Charles, Illinois, a Lead Warning Statement as set out in 40 C.F.R. § 745.113(b)(1).

32. **Count 3**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated February 19, 2008, for 219 North 4th Street, Lower Unit, St. Charles, Illinois, a Lead Warning Statement as set out in 40 C.F.R. § 745.113(b)(1).

33. **Count 4**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated December 5, 2008, for 219 North 4th Street, Rear Unit, St. Charles, Illinois, a Lead Warning Statement as set out in 40 C.F.R. § 745.113(b)(1).

34. **Count 5**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated May 3, 2009, for 120 North 4th Street, Unit B, St. Charles, Illinois, a Lead Warning Statement as set out in 40 C.F.R. § 745.113(b)(1).

35. **Count 6**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated August 1, 2009, for 221 North 4th Street, Lower Unit, St. Charles, Illinois, a Lead Warning Statement as set out in 40 C.F.R. § 745.113(b)(1).

36. **Count 7**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated August 15, 2009, for 219 North 4th Street, Lower Unit, St. Charles, Illinois, a Lead Warning Statement as set out in 40 C.F.R. § 745.113(b)(1).

37. Respondent's failure to include, either within each contract or as an attachment, a Lead Warning Statement for each leasing transaction referred to in the paragraphs above constitutes seven violations of 40 C.F.R. § 745.113(b)(1), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

Counts 8 through 14

38. Complainant incorporates paragraphs 1 through 28 of this Complaint as if set forth in this paragraph.

39. **Count 8**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated January 31, 2008, for 219 North 4th Street, Upper Unit, St. Charles, Illinois, a statement by the lessor disclosing either the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or a lack of knowledge of such presence.

40. **Count 9**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated February 7, 2008, for 221 North 4th Street, Upper Unit, St. Charles, Illinois, a statement by the lessor disclosing either the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or a lack of knowledge of such presence.

41. **Count 10**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated February 19, 2008, for 219 North 4th Street, Lower Unit, St. Charles, Illinois, a statement by the lessor disclosing either the presence of any

known lead-based paint and/or lead-based paint hazards in the target housing or a lack of knowledge of such presence.

42. **Count 11**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated December 5, 2008, for 219 North 4th Street, Rear Unit, St. Charles, Illinois, a statement by the lessor disclosing either the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or a lack of knowledge of such presence.

43. **Count 12**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated May 3, 2009, for 120 North 4th Street, Unit B, St. Charles, Illinois, a statement by the lessor disclosing either the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or a lack of knowledge of such presence.

44. **Count 13**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated August 1, 2009, for 221 North 4th Street, Lower Unit, St. Charles, Illinois, a statement by the lessor disclosing either the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or a lack of knowledge of such presence.

45. **Count 14**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated August 15, 2009, for 219 North 4th Street, Lower Unit, St. Charles, Illinois, a statement by the lessor disclosing either the presence of any known lead-based paint and/or lead-based paint hazards in the target housing or a lack of knowledge of such presence.

46. Respondent's failure to include, either within each contract or as an attachment, a statement by the lessor disclosing either the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being leased or a lack of knowledge of such presence for each leasing transaction referred to in the paragraphs above constitutes seven violations of 40 C.F.R. § 745.113(b)(2), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

Counts 15 through 21

47. Complainant incorporates paragraphs 1 through 28 of this Complaint as if set forth in this paragraph.

48. **Count 15**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated January 31, 2008, for 219 North 4th Street, Upper Unit, St. Charles, Illinois, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee or a statement that no such records are available.

49. **Count 16**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated February 7, 2008, for 221 North 4th Street, Upper Unit, St. Charles, Illinois, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee or a statement that no such records are available.

50. **Count 17**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated February 19, 2008, for 219 North 4th Street, Lower Unit, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee or a statement that no such records are available.

51. **Count 18**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated December 5, 2008, for 219 North 4th Street, Rear Unit, St. Charles, Illinois, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee or a statement that no such records are available.

52. **Count 19**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated May 3, 2009, for 120 North 4th Street, Unit B, St. Charles, Illinois, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee or a statement that no such records are available.

53. **Count 20**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated August 1, 2009, for 221 North 4th Street, Lower Unit, St. Charles, Illinois, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee or a statement that no such records are available.

54. **Count 21**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated August 15, 2009, for 219 North 4th Street, Lower Unit, St. Charles, Illinois, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee or a statement that no such records are available.

55. Respondent's failure to include, either within each contract or as an attachment, a list of any records or reports available to the lessor regarding lead-based paint and/or lead-based paint hazards in the target housing that have been provided to the lessee, or a statement that no such

records are available, for each leasing transaction referred to in the paragraphs above constitutes seven violations of 40 C.F.R. § 745.113(b)(3), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

Counts 22 through 28

56. Complainant incorporates paragraphs 1 through 28 of this Complaint as if set forth in this paragraph.

57. **Count 22**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated January 31, 2008, for 219 North 4th Street, Upper Unit, St. Charles, Illinois, a statement by the lessee affirming receipt of the information required by 40 C.F.R. § 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696.

58. **Count 23**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated February 7, 2008, for 221 North 4th Street, Upper Unit, St. Charles, Illinois, a statement by the lessee affirming receipt of the information required by 40 C.F.R. § 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696.

59. **Count 24**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated February 19, 2008, for 219 North 4th Street, Lower Unit, St. Charles, Illinois, a statement by the lessee affirming receipt of the information required by 40 C.F.R. § 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696.

60. **Count 25**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated December 5, 2008, for 219 North 4th Street, Rear Unit, St. Charles, Illinois, a statement by the lessee affirming receipt of the information

required by 40 C.F.R. § 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696.

61. **Count 26:** Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated May 3, 2009, for 120 North 4th Street, Unit B, St. Charles, Illinois, a statement by the lessee affirming receipt of the information required by 40 C.F.R. § 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696.

62. **Count 27:** Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated August 1, 2009, for 221 North 4th Street, Lower Unit, St. Charles, Illinois, a statement by the lessee affirming receipt of the information required by 40 C.F.R. § 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696.

63. **Count 28:** Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated August 15, 2009, for 219 North 4th Street, Lower Unit, St. Charles, Illinois, a statement by the lessee affirming receipt of the information required by 40 C.F.R. § 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696.

64. Respondent's failure to include, either within each contract or as an attachment, a statement by the lessee affirming receipt of the information required by 40 C.F.R. § 745.113(b)(2) and (3) and the Lead Hazard Information Pamphlet required under 15 U.S.C. § 2696 for each leasing transaction referred to in the above paragraphs constitutes seven violations of 40 C.F.R. § 745.113(b)(4), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

Counts 29 through 35

65. Complainant incorporates paragraphs 1 through 28 of this Complaint as if set forth in this paragraph.

66. **Count 29**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated January 31, 2008, for 219 North 4th Street, Upper Unit, St. Charles, Illinois, the signatures of the lessor and the lessee certifying to the accuracy of their statements and the dates of such signatures.

67. **Count 30**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated February 7, 2008, for 221 North 4th Street, Upper Unit, St. Charles, Illinois, the signatures of the lessor and the lessee certifying to the accuracy of their statements and the dates of such signatures.

68. **Count 31**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated February 19, 2008, for 219 North 4th Street, Lower Unit, St. Charles, Illinois, the signatures of the lessor and the lessee certifying to the accuracy of their statements and the dates of such signatures.

69. **Count 32**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated December 5, 2008, for 219 North 4th Street, Rear Unit, St. Charles, Illinois, the signatures of the lessor and the lessee certifying to the accuracy of their statements and the dates of such signatures.

70. **Count 33**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated May 3, 2009, for 120 North 4th Street, Unit B, St. Charles, Illinois, the signatures of the lessor and the lessee certifying to the accuracy of their statements and the dates of such signatures.

71. **Count 34**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated August 1, 2009, for 221 North 4th Street, Lower Unit, St. Charles, Illinois, the signatures of the lessor and the lessee certifying to the accuracy of their statements and the dates of such signatures.

72. **Count 35**: Respondent failed to include, either within the contract or as an attachment to the contract to lease target housing dated August 15, 2009, for 219 North 4th Street, Lower Unit, St. Charles, Illinois, the signatures of the lessor and the lessee certifying to the accuracy of their statements and the dates of such signatures.

73. Respondent's failure to include, either within each contract or as an attachment, the signatures of the lessor and the lessee certifying to the accuracy of their statements and the dates of such signatures for each leasing transaction referred to in the paragraphs above constitutes seven violations of 40 C.F.R. § 745.113(b)(6), 15 U.S.C. § 2689, and 42 U.S.C. § 4852d(b)(5).

Proposed Civil Penalty

74. Complainant proposes that the Administrator assess a civil penalty against Respondent for the violations alleged in this Complaint as follows.

Count 1

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(1) \$775

Count 2

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(1) \$1,550

Count 3

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(1) \$3,225

Count 4

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(1) \$775

Count 5

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(1) \$3,545

Count 6

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(1) \$11,340

Count 7

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(1) \$5,670

Count 8

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(2) \$385

Count 9

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(2) \$770

Count 10

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(2) \$2,580

Count 11

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(2) \$385

Count 12

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(2) \$5,670

Count 13

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(2) \$8,500

Count 14

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(2) \$4,250

Count 15

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(3) \$130

Count 16

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(3) \$260

Count 17

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(3) \$840

Count 18

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(3) \$130

Count 19

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(3) \$1,850

Count 20

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(3) \$2,840

Count 21

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(3) \$1,420

Count 22

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(4) \$260

Count 23

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(4) \$520

Count 24

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(4) \$1,610

Count 25

42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(4) \$260

<u>Count 26</u>	
42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(4)	\$3,540
<u>Count 27</u>	
42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(4)	\$5,670
<u>Count 28</u>	
42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(4)	\$2,835
<u>Count 29</u>	
42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(6)	\$65
<u>Count 30</u>	
42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(6)	\$130
<u>Count 31</u>	
42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(6)	\$320
<u>Count 32</u>	
42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(6)	\$65
<u>Count 33</u>	
42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(6)	\$710
<u>Count 34</u>	
42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(6)	\$1,420
<u>Count 35</u>	
42 U.S.C. § 4852d(b)(5) and 40 C.F.R. § 745.113(b)(6)	\$710
Total Proposed Civil Penalty	\$69,120

75. In determining the amount of any civil penalty, Section 16 of TSCA requires EPA to take into account the nature, circumstances, extent and gravity of the violation or violations alleged

and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other factors as justice may require.

76. EPA calculates penalties by applying its Section 1018 - Disclosure Rule Enforcement Response and Penalty Policy, dated December 2007 (Response Policy). This Response Policy provides a rational, consistent and equitable calculation methodology for applying the statutory factors to particular cases. As discussed in the Response Policy, the severity of each violation alleged in the complaint is based on the extent to which each violation impairs the ability of a lessee to assess information regarding hazards associated with lead-based paint, and precludes the lessee from making a fully informed decision whether to lease the housing or take appropriate measures to protect against lead-based paint hazards. Factors relevant to assessing an appropriate penalty include information pertaining to a Respondent's ability to pay a penalty, any evidence showing that no lead-based paint exists in the cited housing, and any evidence that Respondent has taken steps to discover the presence of and/or has taken steps to abate lead-based paint and its hazards in subject housing.

77. By letter dated August 12, 2011, EPA advised Respondent that EPA was planning to file a civil administrative complaint against Respondent for alleged violations of Section 1018 of the Act and that Section 1018 authorizes the assessment of a civil administrative penalty. EPA asked Respondent to identify any factors Respondent thought EPA should consider before issuing the complaint, and to submit specific financial documents if Respondent believed there were financial factors which bore on Respondent's ability to pay a civil penalty.

78. Respondent provided no facts or information which would indicate that the penalty should be adjusted for financial or other factors related to the alleged violation.

Rules Governing This Proceeding

The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) at 40 C.F.R. Part 22 govern this proceeding to assess a civil penalty. Enclosed with the Complaint is a copy of the Consolidated Rules.

Filing and Service of Documents

Respondent must file with the Regional Hearing Clerk the original and one copy of each document Respondent intends to include as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Jeffery Trevino to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Mr. Trevino at (312) 886-6729. His address is:

Jeffery Trevino (C-14J)
Associate Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Penalty Payment

Respondent may resolve this proceeding at any time by paying the proposed civil penalty by certified or cashier's check payable to "Treasurer, United States of America" and by delivering the check to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Respondent must include the case name and docket number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to Jeffery Trevino and to:

Pamela Grace (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Answer and Opportunity to Request a Hearing

If Respondent contests any material fact upon which the Complaint is based or the appropriateness of any penalty amount, or contends that he is entitled to judgment as a matter of law, Respondent may request a hearing before an Administrative Law Judge. To request a hearing, Respondent must file a written Answer within 30 days of receiving this Complaint and must include in that written Answer a request for a hearing. Any hearing will be conducted according to the Consolidated Rules.

In counting the 30-day time period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

To file an answer, Respondent must file the original written answer and one copy with the Regional Hearing Clerk at the address specified above.

Respondent's written answer must clearly and directly admit, deny, or explain each of the factual allegations in the Complaint; or must state clearly that Respondent has no knowledge of a

particular factual allegation. Where Respondent states that he has no knowledge of a particular factual allegation, the allegation is deemed denied. Respondent's failure to admit, deny, or explain any material factual allegation in the Complaint constitutes an admission of the allegation. Respondent's answer must also state:

- a. The circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. The facts that Respondent disputes;
- c. The basis for opposing the proposed penalty; and
- d. Whether Respondent requests a hearing.

If Respondent does not file a written answer within 30 calendar days after receiving this Complaint, the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the Complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of EPA under Section 22.27(c) of the Consolidated Rules.

Settlement Conference

Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, Respondent may contact Mr. Trevino at the address provided above.

Respondent's request for an informal settlement conference does not extend the 30-calendar-day period for filing a written Answer to this Complaint. Respondent may pursue

simultaneously the informal settlement conference and the adjudicatory hearing process. The Complainant encourages all parties facing civil penalties to pursue settlement through an informal conference. The Complainant, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

Continuing Obligation to Comply

Respondent's payment of the civil penalty will not satisfy Respondent's legal obligation to comply with TSCA and any other applicable federal, state, or local law.

Consent Agreement and Final Order

EPA has authority, where appropriate, to modify the amount of the proposed penalty to reflect any settlement reached with Respondent in an informal conference. The terms of the settlement would be embodied in a Consent Agreement and Final Order. A Consent Agreement signed by both parties is binding when the Regional Administrator signs the Final Order and it is filed with the Regional Hearing Clerk.

Sept. 4, 2012

Date



Margaret M. Guerriero
Director
Land and Chemicals Division

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SEP 06 2012

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

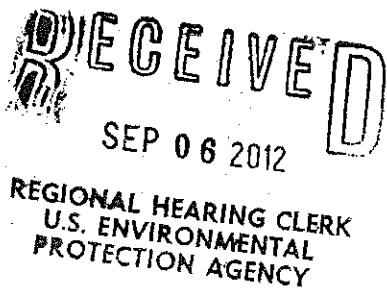
CERTIFICATE OF SERVICE


This is to certify that the original and one copy of this Complaint, in the resolution of the civil administration involving CTA Properties, was filed on September 6, 2012, with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that a true correct copy was sent by Certified Mail, Receipt No. 7009 1680 0000 7667 8780, along with a copy each of the "Consolidated Enforcement Response and Penalty Policy, 40 C.F.R. Part 22," and "Section 1018 Disclosure Rule Enforcement Response Policy" to:

Mr. Clinton T. Anderson
CTA Properties
333 North Randall Road
St. Charles, Illinois 60174

and forwarded intra-Agency copies to:

Ann Coyle, Regional Judicial Officer, ORC/C-14J
Jeffery Trevino, Counsel for Complainant/C-14J
Eric Volck, Cincinnati Finance/MWD




Frederick Brown, PTCS (LC-8J)
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. TSCA - 05-2012-0018