



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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BEFORE THE ADMINISTRATOR

REGIONAL HEARING CLERK U.S. ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: )
Rose Real Estate Properties, Inc., ) Docket No. TSCA-05-2011-0004
Respondent. )

ORDER STAYING DEADLINES, INITIATING ALTERNATIVE DISPUTE RESOLUTION PROCESS, AND APPOINTING NEUTRAL

Complainant filed a Complaint against Rose Real Estate Properties, Inc. ("Respondent") on March 11, 2011, alleging multiple violations of the regulations promulgated under Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("the Act"), 42 U.S.C. § 4852d. See 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. The Complaint alleges that Respondent owns and offered for lease a single-family dwelling subject to the Act, and entered into contracts to lease that dwelling on June 1, 2007 and June 7, 2009. The Complaint alleges ten counts of violation arising from these two leases.

On July 26, 2011, the undersigned issued an Order granting Complainant leave to withdraw five counts of violation and file an Amended Complaint. Respondent, appearing pro se, has requested an opportunity to resolve the remaining counts of violation through an Alternative Dispute Resolution ("ADR") process. Complainant has consented by telephone to engage in ADR at this time.

This administrative litigation is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.1 to 22.52 ("Rules"). These Rules allow the undersigned to order parties to attend settlement conferences and "take all measures necessary for the maintenance of order and for the efficient, fair, and impartial adjudication of" the issues arising in this proceeding. 40 C.F.R. § 22.4(c). Agency policy strongly supports settlement. See 40 C.F.R. § 22.18(b). It is in the interest both of the parties and of judicial economy for there to be an amicable and efficient resolution of this matter, if possible. The request for ADR is hereby GRANTED.

All deadlines in this litigation are hereby STAYED until further notice.

**Judge Barbara Gunning** is hereby appointed as the ADR neutral to initiate and conduct such ADR processes as may facilitate a settlement of this proceeding.

The following procedures shall apply:

1. The ADR process will be conducted in a confidential manner. The ADR neutral shall not disclose the contents of any of the parties' ADR communications to anyone.
2. For the ADR process to be effective, the persons communicating with the neutral must either have authority to commit his or her side to a settlement, or have ready access to someone with such authority.
3. The ADR process shall automatically terminate on **November 4, 2011**. Either party may request that the ADR process terminate before that date. An extension of up to 60 days may be granted by the undersigned upon request of the ADR neutral, but in no event shall ADR continue for longer than 4 months. At that time, if no settlement has been reached, the case will be remanded to the undersigned to proceed with litigation in an expedited manner.
4. A party requesting termination of the ADR process shall so advise the assigned ADR neutral either orally or in writing. The ADR neutral shall forward the request to the Chief Administrative Law Judge. The dispute resolution process initiated by this Order shall terminate upon order of the Chief Administrative Law Judge.
5. At the termination of the ADR process, the parties will be sent a questionnaire regarding their experience with the process. The contents of individual questionnaires will be kept confidential and will be made available to the ADR neutral and others only in a composite format.



\_\_\_\_\_  
Susan L. Biro  
Chief Administrative Law Judge

Dated: September 7, 2011  
Washington, DC


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PROTECTION AGENCY**

In the Matter of Rose Real Estate Properties, Inc., Respondent  
Docket No. TSCA-05-2011-0004

CERTIFICATE OF SERVICE

I certify that the foregoing **Order Staying Deadlines, Initiating Alternative Dispute Resolution Process, and Appointing Neutral**, dated September 7, 2011, was sent this day in the following manner to the addressees listed below.

  
\_\_\_\_\_  
Maria Whiting-Beale  
Staff Assistant

Dated: September 7, 2011

Original And One Copy By Pouch Mail To:

La Dawn Whitehead  
Regional Hearing Clerk  
U.S. EPA  
77 West Jackson Boulevard, E-19J  
Chicago, IL 60604-3590

Copy By Pouch Mail To:

John Matson, Esquire  
Associate Regional Counsel  
U.S. EPA  
77 West Jackson Boulevard, C-14J  
Chicago, IL 60604-3590

Copy By Regular Mail To:

Reverend Floyd E. Rose  
1619 North Lee Street  
Valdosta, GA 31602

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