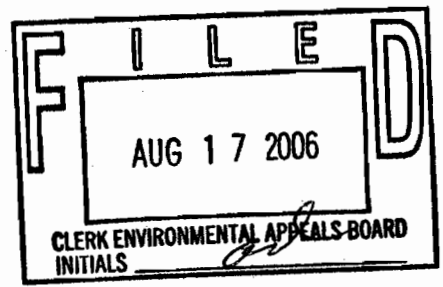


Returned

RECEIVED
U.S. E.P.A.

2006 SEP 12 AM 9:42

ENVIR. APPEALS BOARD



(Slip Opinion)

NOTICE: This opinion is subject to formal revision before publication in the Environmental Administrative Decisions (E.A.D.). Readers are requested to notify the Environmental Appeals Board, U.S. Environmental Protection Agency, Washington, D.C. 20460, of any typographical or other formal errors, in order that corrections may be made before publication.

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In re:)
))
Ronald H. Hunt, et al.) TSCA Appeal No. 05-01
))
Docket No. TSCA-03-2003-0285)
_____)

[Decided August 17, 2006]

FINAL DECISION AND ORDER

*Before Environmental Appeals Judges Scott C. Fulton,
Edward E. Reich, and Anna L. Wolgast.*

RONALD H. HUNT, ET AL.

TSCA Appeal No. 05-01

FINAL DECISION AND ORDER

Decided August 17, 2006

Syllabus

Appellants, owners of rental property and a rental agent in Richmond, Virginia, contest an Initial Decision assessing an \$84,224.80 penalty against them for violating the Toxic Substances Control Act ("TSCA"). The Administrative Law Judge ("ALJ") assessed the penalty based on Appellants' admitted failure to comply with regulations implementing section 1018 of the Residential Lead-Based Paint Hazard Reduction Act ("RLBPHRA") in connection with their rental of four single-family housing units in Richmond. These regulations, codified at 40 C.F.R. part 745, and entitled "Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property" (the "Disclosure Rule"), mandate that sellers and lessors of pre-1978 housing disclose to prospective purchasers and tenants information about the presence of lead-based paint hazards in such housing.

The specific violations that formed the basis of the Initial Decision involve the following Disclosure Rule requirements: (1) the obligation of lessors to include in the lease contract a statement disclosing the known presence of lead-based paint or lead-based paint hazards (40 C.F.R. § 745.113(b)(2)); (2) the obligation of lessors to provide lessees any available records or reports regarding the presence of lead-based paint or lead-based paint hazards (40 C.F.R. § 745.107(a)(4)); (3) the obligation of lessors to provide lessees a list of records or reports regarding lead-based paint or lead-based paint hazards (40 C.F.R. § 745.113(b)(3)); and (4) the obligation of leasing agents to ensure compliance with the Disclosure Rule (40 C.F.R. § 745.115).

The Initial Decision arose from a 47-count administrative complaint in which the U.S. EPA Region III ("Region") alleged that Appellants had violated several Disclosure Rule requirements, including those above, in connection with the four subject properties. The Region subsequently reduced the number of alleged violations to 32 counts, and Appellants stipulated to liability for these violations. The Region sought a \$120,088 penalty against Appellants based on these admitted violations.

In her Initial Decision, the ALJ reduced the penalty from the amount proposed by the Region to \$84,224.80. The ALJ took into account Appellants' mitigation work in her evaluation of the TSCA statutory penalty factors of "extent, circumstances, and gravity" of the violations and "other matters as justice may require." The ALJ reduced