

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

2019 MAY 29 AM 6:41

BEFORE THE ADMINISTRATOR

In the matter of:	)	
	)	Docket No. TSCA-07-2019-0051
	)	
BJZ Development and Construction, L.L.C.	)	
16 Fleetwood Drive	)	
St. Louis, Missouri 63124	)	
	)	
Respondent.	)	

RESPONDENT'S ANSWER TO COMPLAINT

Respondent BJZ Development and Construction, L.L.C. ("Respondent"), through counsel, states as follows for its Answer to the underlying Complaint:

Jurisdiction

1. Respondent Admits Paragraphs 1-2.

Parties

2. Respondent Admits Paragraphs 3-4.

Statutory and Regulatory Background

3. Respondent Admits Paragraphs 5-19.

General Factual Allegations

4. Respondent is without sufficient information to admit or deny the allegations contained in Paragraphs 20-21 because, among other things, a limited liability company is not expressly enumerated as either a "person" or "firm" in the cited regulations. Therefore, Respondent Denies Paragraphs 20-21.

5. Respondent Admits Paragraph 22.

6. In response to Paragraph 23, Respondent is without sufficient information to admit or deny whether the Inspection occurred on April 26, 2018; accordingly, Respondent Denies this allegation. Respondent Admits the balance of Paragraph 23.

7. Respondent Admits Paragraph 24.

8. Respondent is without sufficient information to admit or deny whether the Property was constructed between 1908 and 1916; accordingly, Respondent Denies this allegation. Respondent Admits the balance of Paragraph 25.

9. Respondent Admits Paragraph 26.

10. Paragraph 27 does not appear to call for a response. To the extent a response is necessary, anything not expressly admitted is denied.

#### Alleged Violations

11. Paragraph 28 does not appear to call for a response. To the extent a response is necessary, anything not expressly admitted is denied.

#### Count One

12. Respondent Admits Paragraphs 29-33.

#### Count Two

13. Respondent Admits Paragraphs 34-36.

#### Count Three

14. Respondent Admits Paragraphs 37-39.

#### Count Four

15. Respondent Admits Paragraphs 40-42.

### Relief Requested

16. Respondent Admits that there is authority to levy civil administrative penalties, but Denies that the proposed civil penalty (\$17,494.00) is appropriate.

17. With specific reference to the LBP Consolidated ERPP dated August 2010, there are numerous reasons the proposed civil penalty should be lessened or reduced to zero.

18. Respondent has no prior EPA related violations.

19. No one was living in the underlying Property at the time of the underlying work or renovation, and thus there was and is a low probability of any activities adversely impacting human health and/or the environment.

20. There was and is a low degree of culpability in that Respondent has not had extensive experience in dealing with the applicable federal regulations. Further, there was not an intentional or knowing violation of the applicable federal regulations.

21. Respondent is a "small business" with fewer than four (4) employees.

22. Based on Respondent's assessment of the Property, there were no toxic or harmful products or materials present or exposed to third-parties.

23. Immediately before the filing of this Answer, Respondent has been cooperative with RPA regarding the claims in that Respondent has (1) expressed remorse, (2) signaled an immediate good faith effort to comply with the regulations, (3) communicated a willingness to resolve the claims made in the Complaint, and (4) otherwise work toward early settlement by, among other things, proposing to perform instruction regarding EPA violations and compliance.

24. To the extent any further response is necessary, Respondent denies any other allegation not expressly admitted herein.

Request for Hearing

25. Respondent opposes the proposed penalty for the reasons expressed previously.

Therefore, Respondent requests a hearing.

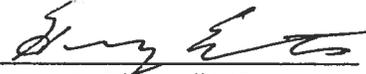
Request for Informal Settlement Conference

26. Respondent hereby requests an informal settlement conference to discuss the facts of this case, the proposed penalty, and the possibility of settlement.

  
\_\_\_\_\_  
BJZ Development and Construction, L.L.C.  
Authorized Signer  
*BRUCE ZEBELL*

*5/22/19*  
\_\_\_\_\_  
Date

Respectfully submitted,

  
\_\_\_\_\_  
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(E-mail) henry@elsterlaw.com  
*Attorney for Respondent*

CERTIFICATE OF SERVICE

Signature above and below is also certification that a true and correct copy of the foregoing was mailed first class, postage prepaid, to the below parties/attorneys and/or filed electronically this 21 day of May 2019, thereby causing copies of same to be delivered to all parties/counsel of record, including:

Raymond C. Bosch  
Officer of Regional Counsel  
US EPA Service, Region 7  
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Lenexa, Kansas 66219  
Bosch.Raymond@epa.gov

  
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