

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NEW ENGLAND REGION**

In the Matter of:)	
)	
Waterway Realty, LLC	)	Docket No.
8030 South Willow Street)	
Building 3, Unit 5	)	TSCA-01-2014-0066
Manchester, New Hampshire)	
)	
Respondent.)	
)	
Proceeding under Section 16(a) of the)	
Toxic Substances Control Act,)	
42 U.S.C. § 2615(a))	
)	

COMPLAINANT'S INITIAL PREHEARING EXCHANGE

This Initial Prehearing Exchange is submitted on behalf of the Complainant, the United States Environmental Protection Agency (EPA), Region I, as required by the Prehearing Order dated July 8, 2015 (the "Prehearing Order"). This submission includes (i) a list of EPA's witnesses and documentary evidence, (ii) an explanation of how EPA determined the proposed penalty amount, (iii) a statement explaining the factual and legal bases for the allegations denied in Respondent's Answers, and (iv) EPA's preference regarding the hearing location. Copies of EPA's proposed exhibits are attached to this document

The prehearing exchange to be submitted by the Respondent, Waterway Realty, LLC ("Waterway") (the "Respondent") may result in the need for additional EPA witnesses or documentary evidence relevant to this proceeding. Accordingly, EPA reserves the right to supplement this Prehearing Exchange.

1. Witness List

Presently, EPA intends to call the following persons as witnesses in the hearing:

- A. Alexander Aman, Formerly Environmental Engineer, Toxics and Pesticides Unit, U.S. EPA, Region 1.

Mr. Aman will testify regarding his observations during his compliance inspection of 6 Mitchell Street, Nashua, NH ("Property") and his review of Respondent's records. Mr. Aman also will authenticate relevant exhibits. In addition, Mr. Aman will testify as to his review of the evidence compiled as a result of EPA's investigation of Respondent's businesses, and the factual bases for EPA's determination that Respondent violated the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("the Act"), the Toxic Substances Control Act ("TSCA") and the Renovation, Repair and Painting ("RRP") Rule. He also will testify as to how the penalty proposed in the Complaint was calculated applying the statutory penalty factors set forth within Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), including the nature, circumstances, extent, and gravity of the violations, and with respect to the Respondent, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require, and according to EPA's August 2010 Interim Final Policy entitled, "Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule" ("Penalty Policy").

B. Kevin Pinet.

Mr. Pinet will testify regarding his employment with Waterway Realty, LLC (“Waterway”) at the Property between June and October 2012. He will testify regarding the following: the nature of his work at the Property; the source of his wages and method of payment of his wages; the direction and assignment of Mr. Pinet’s and Mr. Pinet’s co-workers’ job duties; his knowledge regarding the hiring and payment practices with respect to other workers at the Property; and his knowledge and experiences regarding the purchase and provision of work materials used for the renovation of the Property.

C. Robert Russell.

Mr. Russell will testify regarding his employment with Waterway between June and October 2012 at the Property. Specifically, Mr. Russell will testify regarding the following: how he came to be employed by Waterway; the nature of his work at the Property; the direction and assignment of his duties at the Property; the source of his wages and method of payment of his wages; his experiences and observations with respect to the employment and duties of other workers at the Property; and his knowledge and observations with respect to the purchase and provision of the materials used for the renovation of the Property.

D. Mathew Belanger.

Mr. Belanger will testify regarding his employment with Waterway at the Property sometime between June and October 2012. He will testify regarding the nature of his duties at

the Property and the source of his wages and method of payment of his wages. Mr. Belanger also will testify regarding his RRP certification on October 19, 2012. Further, he will testify regarding his knowledge of the status of RRP Rule certification with respect to other workers at the Property, and the status of RRP Rule certification of Waterway as a "firm."

E. Mary Medeiros, Financial Analyst, Office of Environmental Stewardship, EPA
Region 1.

Ms. Medeiros will testify as to Waterway's ability to pay the proposed civil penalty.

EPA reserves the right to supplement its witness list for rebuttal and for additional or new evidence upon notice to the Court and Respondent.

2. Exhibit List

Copies of documents and exhibits which Complainant intends to introduce into evidence at the hearing are attached hereto as Complainant's Exhibits, and are numbered sequentially beginning with the term "CX" (e.g. CX-1). The following include the documents that the Court ordered to be exchanged in the Prehearing Order.

Exhibit 1	New Hampshire Secretary of State, Corporate Record – Certificate of Formation – Waterway Realty, LLC.
Exhibit 2	Limited Liability Company Annual Report for the Year 2015 regarding Waterway Realty, LLC.

Complainant's Prehearing Exchange: Waterway Realty, LLC., TSCA-01-2014-0066

- Exhibit 3 Nashua, New Hampshire, Tax Assessor's record regarding 6 Mitchell Street.
- Exhibit 4 EPA Inspection Report: TSCA Sections 402(c) Compliance Inspection of Brian Colsia, Manchester, New Hampshire with Attachments, dated January 21, 2014.
- Exhibit 5 October 19, 2012 EPA Individual RRP Certification card for Mathew Belanger.
- Exhibit 6 October 4, 2012 Waterway Realty LLC Application for Firms to Conduct Lead-Based Paint Activities and/or Renovations.
- Exhibit 7 EPA Proposed Penalty Summary Calculation (Attachment 1 to EPA's Complaint).
- Exhibit 8 Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule (LBP Consolidated ERPP) (August 2010).
- Exhibit 9 LexisNexis Comprehensive Business Report: Waterway Realty, LLC.

EPA reserves the right to supplement its exhibit list for rebuttal and for additional or new evidence upon notice to the Court and Respondent.

3. Statement Explaining The Factual And Legal Bases For The Allegations Denied In Respondent's Answers

In Respondent's Answer and Amended Answer, Respondent effectively denies that the Property is "target housing." Respondent also denies that it was a "renovator" conducting renovation activities at the Property. Respondent further denies that the RRP Rule applies to

Waterway because, Respondent claims, it did not perform the renovation activities. It asserts, rather, that it hired a third party contractor, Kevin Pinet/Pinet Construction, LLC, to perform the renovation work at the Property.

EPA's factual and legal bases supporting its allegations that the Property was "target housing," that the RRP Rule applied to Respondent as a "renovator," and that Respondent violated the RRP Rule are as follows:

Exhibit 3 (CX-3), the Nashua, New Hampshire Tax Assessor's record regarding 6 Mitchell Street, provides evidence that the Property was constructed in 1900, and was, thus, "target housing" as defined in 40 C.F.R. § 745.103.

On October 12, 2012, an EPA representative conducted an inspection of the Property to determine Respondent's compliance with the RRP Rule. During the inspection, the EPA inspector interviewed Brian Colsia, owner and manager of Waterway. Mr. Colsia stated that Waterway purchased the property with the intention to renovate it for resale. (EPA Inspection Report, CX-4 at page 2) According to Respondent's Answer, Respondent buys, sells, leases and renovates properties. (Respondent's Answer at page 3) At the time of the inspection, Mr. Colsia stated that his employees conducted the renovation work at the Property. (EPA Inspection Report, CX-4 at page 2) Two listed witnesses, Mr. Kevin Pinet and Mr. Robert Russell, have stated to EPA representatives and will testify that they were hired on an hourly basis by Waterway to perform work on the Property, and that Mr. Colsia directed all of the renovation activities at the Property. Therefore, Respondent was a "renovator" as defined in 40 C.F.R. § 745.83. Further, during the inspection, Mr. Colsia stated that he was not "previously

aware of the RRP Rule or its requirements.” (EPA Inspection Report, CX-4 at page 2) Further, at the time of the inspection, Waterway was not a certified firm pursuant to 40 C.F.R. § 745.89, and neither Mr. Colsia nor anyone at the Property doing work subject to the RRP Rule was a certified renovator pursuant to 40 C.F.R. § 745.90. (EPA Inspection Report, CX-4 at page 3)

4. EPA Guidance Documents Relied Upon

EPA relied upon the following guidance document with regard to the allegations set forth in the Complaint: Renovation, Repair, and Painting (RRP) Rule Frequent Questions (August 11, 2014) (http://www2.epa.gov/sites/production/files/2014-09/documents/full_rrp_fqs_-_august_11_2014.pdf).

5. Judicial Notice

Complainant hereby requests the Presiding Officer to take judicial notice of the following:

1. The Toxic Substances Control Act (TSCA), 15 U.S.C. § 2601 *et seq.*
2. The Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4851-56.
3. The regulations promulgated at 40 C.F.R. Part 745, Subpart E.
4. The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22.

6. Method of Determining the Proposed Civil Penalty

EPA calculated the proposed civil penalty applying the statutory penalty factors set forth within Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), and in accordance with EPA's Penalty Policy. EPA considered the nature, circumstances, extent, and gravity of the violations, and with respect to the Respondent, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. Attachment 1 to EPA's Complaint (CX-7) provides a detailed explanation of how Complainant calculated the proposed civil penalty in this matter.

7. Place of Hearing

Among the eligible sites for a hearing, as provided by 40 C.F.R. §§ 22.19(d) and 22.21(d), EPA proposes that this matter be heard in Boston, Massachusetts, for the convenience of EPA's witnesses and the proximity to EPA records. However, EPA is willing to have this matter heard in Manchester, New Hampshire, if this is more convenient for the parties.

EPA presently believes that it can present its case in two full days. At this time, Complainant is available for the hearing at any time after sixty days from the date of Complainant's Rebuttal Prehearing Exchange. Translation services are not necessary for any EPA witnesses.

8. Reservation of Rights

Complainant respectfully reserves the right to modify or supplement the names of witnesses and exhibits prior to the adjudicatory hearing, pursuant to 40 C.F.R. Part 22, and upon adequate notice to the Respondent and the Presiding Officer.

Respectfully submitted,

Date: 8/14/2015



Peter DeCambre
Senior Enforcement Attorney
U.S. EPA, Region I
Five Post Office Square
Suite 100 (Mail Code: OES04-1)
Boston, MA 02109-3912
(617) 918-1890

CERTIFICATE OF SERVICE

I hereby certify that the Complainant's Initial Prehearing Exchange has been sent to the following persons on the date noted below:

(By Electronic Filing)

Sybil Anderson, Headquarters Hearing Clerk
Office of Administrative Law Judges
US EPA

One copy by First Class Mail:

Judge Susan Biro
Chief Administrative Law Judge
Office of Administrative Law Judges
US EPA
1200 Pennsylvania Avenue, N.W.
Mail Code 1900R
Washington, DC 20460


One copy:

Wanda Rivera
Regional Hearing Clerk (RAA)
U.S. EPA, Region I
5 Post Office Square, Suite 100 (ORA 18-1)
Boston, Massachusetts 02109 - 3912

One copy by First Class Mail:

Waterway Realty, LLC
Brian W. Colsia, Owner/Manager
PO Box 4443
Manchester, NH 03108

Dated: 8/14/2015


Peter DeCambre
Senior Enforcement Counsel
U.S. Environmental Protection Agency,
Region 1
5 Post Office Square, Suite 100 (OES 4-1)
Boston, Massachusetts 02109 - 3912
Tel (617) 918-1890
Electronic Fax (617) 918-0890
decambre.peter@epa.gov

Complainant's Exhibit

CX-1

State of New Hampshire

Filing fee: \$50.00
Fee for Form SRA: \$50.00
Total fees \$100.00

Form LLC-1
RSA 304-C:12

Use black print or type.

Form must be single-sided, on 8 1/2" x 11" paper;
double sided copies will not be accepted.

CERTIFICATE OF FORMATION NEW HAMPSHIRE LIMITED LIABILITY COMPANY

THE UNDERSIGNED, UNDER THE NEW HAMPSHIRE LIMITED LIABILITY COMPANY LAWS
SUBMITS THE FOLLOWING CERTIFICATE OF FORMATION:

FIRST: The name of the limited liability company is Waterway Realty, LLC

SECOND: The nature of the primary business or purposes are 1. To engage in the sale, purchase,
development, renting and leasing of apartments and real estate. To engage in the real estate business in general;
2. To engage in any lawful acts for which limited liability companies may under NH RSA 304-C:7

THIRD: The name of the limited liability company's registered agent is Victor W. Dahar, Esq.

and the street address, town/city (including zip code and post office box, if any) of its registered office is
(agent's business address) Victor W. Dahar, P.A., 20 Merrimack Street, Manchester, NH 03101

FOURTH: The latest date on which the limited liability company is to dissolve is None

FIFTH: The management of the limited liability company is vested in a manager or managers.

SIXTH: The sale or offer for sale of any ownership interests in this business will comply with the
requirements of the New Hampshire Uniform Securities Act (RSA 421-B).

effective
2-18-2010
11:00 am
*Signature: *Amy N. Justin*
Print or type name: Amy N. Justin
Title: Member manager
(Enter "manager" or "member")
Date signed: 2-18-2010

*Must be signed by a manager; if no manager, must be signed by a member.

CX-1

DISCLAIMER: All documents filed with the Corporate Division become public records and will be
available for public inspection in either tangible or electronic form.

Mail fees, DATED AND SIGNED ORIGINAL AND FORM SF
of State, 107 North Main Street, Concord NH 03301-4989.

State of New Hampshire
Form LLC 1 - Certificate of Formation 2 Page(s)



T1004944007

**Form SRA – Addendum to Business Organization and Registration Forms
Statement of Compliance with New Hampshire Securities Laws**

Part I – Business Identification and Contact Information

Business Name: Waterway Realty, LLC
Business Address (include city, state, zip): PO Box 597, Merrimack, NH 03054
Telephone Number: (603) 669-0492 E-mail: _____
Contact Person: Allana E. Kelley Colsia
Contact Person Address (if different): _____

Part II – Check ONE of the following items in Part II. If more than one item is checked, the form will be rejected.
[PLEASE NOTE: Most small businesses registering in New Hampshire qualify for the exemption in Part II, Item 1 below. However, you must insure that your business meets all of the requirements spelled out in A), B), and C):]

1. Ownership interests in this business are exempt from the registration requirements of the state of New Hampshire because the business meets ALL of the following three requirements:
 - A) This business has 10 or fewer owners; and
 - B) Advertising relating to the sale of ownership interests has not been circulated; and
 - C) Sales of ownership interests – if any – will be completed within 60 days of the formation of this business.
2. _____ This business will offer securities in New Hampshire under another exemption from registration or will notice file for federal covered securities. Enter the citation for the exemption or notice filing claimed - _____
3. _____ This business has registered or will register its securities for sale in New Hampshire. Enter the date the registration statement was or will be filed with the Bureau of Securities Regulation - _____
4. _____ This business was formed in a state other than New Hampshire and will not offer or sell securities in New Hampshire.

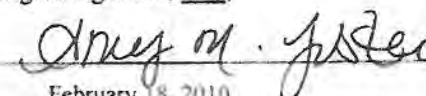
Part III – Check ONE of the following items in Part III:

1. _____ This business is not being formed in New Hampshire.
2. This business is being formed in New Hampshire and the registration document states that any sale or offer for sale of ownership interests in the business will comply with the requirements of the New Hampshire Uniform Securities Act.

Part IV – Certification of Accuracy

(NOTE: The information in Part IV must be certified by: 1) all of the incorporators of a corporation to be formed; or 2) an executive officer of an existing corporation; or 3) all of the general partners or intended general partners of a limited partnership; or 4) one or more authorized members or managers of a limited liability company; or 5) one or more authorized partners of a registered limited liability partnership or foreign registered limited liability partnership.)

I (We) certify that the information provided in this form is true and complete. (Original signatures only)

Name (print): Amy N. Justin Signature: 
Date signed: February 18, 2010
Name (print): _____ Signature: _____
Date signed: _____
Name (print): _____ Signature: _____
Date signed: _____

Complainant's Exhibit

CX-2



State of New Hampshire 2015 ANNUAL REPORT

The following information shall be given as of January 1
preceeding the due date Pursuant to RSA 304-C:80.

REPORT DUE BY April 1, 2015

ANNUAL REPORTS RECEIVED AFTER THE DUE DATE
WILL BE ASSESSED A LATE FEE.

Filed
Date Filed: 02/24/2015
Business ID: 626296
William M. Gardner
Secretary of State

WATERWAY REALTY, LLC
PO BOX 4443
MANCHESTER, NH 03108

ADDRESS OF PRINCIPAL OFFICE:
8030 S. WILLOW STREET, BLDG. 3, UNIT 5
MANCHESTER, NH 03103

REGISTERED AGENT AND OFFICE:
COLSIA, BRIAN W
8030 S WILLOW STREET B1U2A
MANCHESTER, NH 03103

ENTITY TYPE:	LLC
BUSINESS ID:	626296
STATE OF DOMICILE:	NEW HAMPSHIRE

ENGAGE IN SALE, PURCHASE, DEVELOPMENT, RENTING AND LEASING OF APRTMENTS AND REAL ESTATE. ENGAGE IN THE REAL

If changing the mailing or principal office address, please check the appropriate box and fill in the necessary information.

The new mailing address _____

The new principal office address 63 Cedar Crest Lane, Auburn, NH 03032

PO Box is acceptable.

MANAGERS		MEMBERS	
NAME AND BUSINESS ADDRESS (P.O. BOX ACCEPTABLE). <u>LIST AT LEAST ONE MANAGER BELOW OR MEMBER ON RIGHT</u>		NAME AND BUSINESS ADDRESS (P.O. BOX ACCEPTABLE). <u>MUST LIST AT LEAST ONE MEMBER BELOW IF NO MANAGERS</u>	
MANA.	<u>Brian W. Colsia</u>	NAME	.....
STREET	<u>PO Box 4443</u>	STREET	.....
CITY/STATE/ZIP	<u>Manchester Nh 03108</u>	CITY/STATE/ZIP	.....
NAME	.....	NAME	.....
STREET	.....	STREET	.....
CITY/STATE/ZIP	.....	CITY/STATE/ZIP	.....
NAME	.....	NAME	.....
STREET	.....	STREET	.....
CITY/STATE/ZIP	.....	CITY/STATE/ZIP	.....
NAME	.....	NAME	.....
STREET	.....	STREET	.....
CITY/STATE/ZIP	.....	CITY/STATE/ZIP	.....

NAMES AND ADDRESSES OF ADDITIONAL MANAGERS/MEMBERS ARE ATTACHED

To be signed by the manager, if no manager, must be signed by a member.
I, the undersigned, do hereby certify that the statements on this report are true to the best of my information, knowledge and belief.

Sign here: Brian W. Colsia

Please print name and title of signer: Brian W. Colsia / MANAGER

NAME TITLE

FEE DUE: \$100.00 E-MAIL ADDRESS (OPTIONAL): _____



062629620151000

WHEN THIS FORM IS ACCEPTED BY THE SECRETARY OF STATE, BY LAW IT WILL BECOME A PUBLIC DOCUMENT AND ALL INFORMATION PROVIDED IS SUBJECT TO PUBLIC DISCLOSURE REQUIRED INFORMATION MUST BE COMPLETE OR THE REGISTRATION REPORT WILL BE REJECTED

MAKE CHECK PAYABLE TO SECRETARY OF STATE
RETURN COMPLETED REPORT AND PAYMENT TO:
New Hampshire Department of State, Annual Reports, 107 N. Main St., Room 204, Concord, NH 03301

Complainant's Exhibit

CX-3

- HOME
- SEARCH
- SUMMARY
- INTERIOR
- EXTERIOR
- SALES
- MAPS
- ABOUT

| [Printable Record Card](#) | [Previous Assessment](#) | [Condo Info](#) | [Sales](#) | **WebPro**
 Zonina | [Comments](#) |

Card 1 of 1

Location 6 MITCHELL ST	Property Account Number 6624	Parcel ID 0062-00021 Old Parcel ID -62-21-
-------------------------------	-------------------------------------	-------------------------------------------------------------

Current Property Mailing Address

Owner WATERWAY REALTY, LLC	City MANCHESTER
Address 8030 S WILLOW ST U-3-1	State NH
	Zip 03103
	Zoning RB

Current Property Sales Information

Sale Date 5/25/2012	Legal Reference 8430-1852
Sale Price 116,200	Grantor(Seller) GSAA HOME EQUITY TRUST,

Current Property Assessment

Year 2015	Card 1 Value
	Building Value 117,900
Land Area 0.126 acres	Xtra Features Value 0
	Land Value 75,600
	Total Value 193,500

Narrative Description

This property contains **0.126 acres** of land mainly classified as **1 UNIT** with a(n) **CONVENTIONAL** style building, built about **1900**, having **CLAPBOARD** exterior and **ASPHALT** roof cover, with **1 unit(s)**, **10 total room(s)**, **4 total bedroom(s)**, **1 total bath(s)**, **0 total half bath(s)**, **0 total 3/4 bath(s)**.

Legal Description

Desc:

Property Images

Sum Area By Label :

- FFL = 1264
- OFF = 170
- UAT = 1215
- SFL = 1215
- BMT = 1215

[Click To Enlarge](#)

CX-3

Complainant's Exhibit

CX-4

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NEW ENGLAND
5 POST OFFICE SQUARE, BOSTON, MA 02109-3912**

MEMORANDUM

DATE: **DRAFT:** October 29, 2012
 FINAL: December 19, 2012
 REVISED: January 21, 2014

SUBJ: Inspection Report: TSCA Sections 402(c) Compliance Inspection of
 Brian Colsia, Manchester, New Hampshire

FROM: Alexander Aman, Environmental Engineer
 Toxics and Pesticides Unit, EPA

THRU: Sharon Hayes, Manager
 Toxics and Pesticides Unit, EPA

TO: File

I. General Information

- A. **Firm:** Waterway Realty, LLC
 Brian W. Colsia, Owner/Manager
 8030 S. Willow Street
 Building 3, Unit 5
 Manchester, NH 03103

- B. **Location of Inspection:** 6 Mitchell Street
 Nashua, NH 03064

- C. **Date of Inspection:** October 3, 2012

- D. **Personnel Participating in Inspection:**
 Alexander Aman, EPA
 Brian W. Colsia, Waterway Realty LLC, Owner/Manager
 Danielle LeBlanc, Waterway Realty LLC, Administrative Assistant

II. Purpose of the Inspection and Background Information

Waterway Realty, LLC came to the attention of the Environmental Protection Agency (“EPA”) through an online complaint received by EPA on September 4, 2012 and again through a telephone complaint and email received by EPA inspector Alexander Aman on October 1, 2012 (Attachment 1) concerning an ongoing renovation operation located at the single family residential property located at 6 Mitchell Street in Nashua, New Hampshire (“the Property”).

The EPA inspection was conducted to document and determine compliance with federal laws regarding lead exposure reduction and childhood lead poisoning prevention that EPA enforces, along with their implementing regulations, including Section 402 of TSCA, the Renovation, Repair and Painting (“RRP”) Rule which amended 40 C.F.R. Part 745, Subparts E and L.

III. Opening Conference

On October 3, 2012 EPA inspector Alexander Aman contacted the owner and renovator of the property Brian Colsia. During the phone conversation Mr. Aman explained the nature of the complaint received by EPA, the background and requirements of the RRP Rule, and asked that Mr. Colsia meet him at the property later that same day. Mr. Colsia stated that he was not previously aware of the RRP Rule or its requirements and agreed to meet Mr. Aman at the Property at approximately 2:30 pm on October 3, 2012.

Inspector Aman arrived by car at the Property at approximately 2:30 pm and identified himself to two individuals standing on the sidewalk adjacent to the Property. One of the individuals identified himself as Brain Colsia, owner and manager of Waterway Realty, LLC. Mr. Colsia then introduced the other individual as his administrative assistant Danielle LeBlanc.

Mr. Aman then requested and received access to the Property from Mr. Colsia. Mr. Aman explained the purpose of the inspection and the authority under which it was being conducted. Inspector Aman presented his credentials to Mr. Colsia and Ms. LeBlanc and asked Mr. Colsia to explain background and scope of the renovation activities.

Mr. Colsia explained that Waterway Realty, LLC had purchased the Property and was renovating the building for resale. The renovation activities included: complete power washing and repainting of the exterior; replacement of window casements; interior wall rehabilitation and replacement of drywall throughout the building; remodeling of first and second story bathrooms; kitchen remodeling including new cabinets, appliances and counters; installation of new flooring throughout the building; and miscellaneous plumbing and electrical work throughout the building. Mr. Colsia also explained that he did not perform the work himself but had multiple “employees” perform the work.

Mr. Aman again asked Mr. Colsia if he was aware of the RRP Rule and its requirements. Mr. Colsia again explained that he was unaware of the RRP Rule or its requirements.

Mr. Aman provided Mr. Colsia with an explanation of the RRP Rule applicability to residential renovations and detailed the RRP Rule requirements.

IV. RRP Rule Inspection:

Mr. Colsia provided Mr. Aman with a narrative concerning the background and execution of the Renovation and accompanied Mr. Aman as he inspected the property. Mr. Colsia explained that his employees had not followed the RRP Requirements and that neither he, Waterway Realty, LLC, nor his employees were certified by EPA to perform work under the RRP Rule. Mr. Aman asked detailed questions concerning compliance with the RRP rule. The information provided by Mr. Colsia is summarized in the attached RRP Inspection Checklist (Attachment 2). Mr. Aman also provided detailed compliance assistance during the inspection.

V. Closing Conference

Mr. Aman summarized renovation information provided by Mr. Colsia during the inspection, explained possible deficiencies and provided further compliance assistance.

Mr. Aman informed Mr. Colsia that any additional disturbance of painted surfaces on the Property must be performed following the RRP Rule. Mr. Colsia stated that the renovation activities would not involve any more disturbance of painted surfaces and provided a detailed explanation of planned activities. Inspector Aman then instructed Mr. Colsia to take immediate steps to clean the exterior and interior of the property. Mr. Colsia stated that he would do so and that he would immediately apply for EPA firm certification and send his employees to an EPA approved renovator certification class.

Mr. Aman asked Mr. Colsia if he was aware of Section 1018, the Real Estate Notification and Disclosure Rule (“Disclosure Rule”) codified at 40 C.F.R. 745, Subpart F. Mr. Colsia stated that he was aware of the Disclosure Rule and that most of his properties were seasonal rental properties with short term tenancy. Mr. Colsia also stated that he did provide disclosure in all property transactions. Mr. Aman provided Mr. Colsia with compliance assistance concerning the Disclosure Rule.

Mr. Colsia then signed the Notice of Inspection (see Attachment 3), and the TSCA Inspection Confidentiality Notice form (see Attachment 4). Inspector Aman then completed, signed and explained the Notification of Potential Violation(s) of the Federal Renovation, Repair and Painting Rule (“NPV”) form (see Attachment 5). Mr. Colsia declined to sign the NPV form without having his legal counsel reviewing it first. Mr. Aman asked if Mr. Colsia had retained or planned to retain legal counsel in response to the RRP Rule inspection. Mr. Colsia explained that he had not yet retained legal counsel and that future communication concerning the RRP Rule inspection should be directed to him.

Photos were taken by Mr. Aman of the ongoing renovation activities at the Property (see Attachment 6). Mr. Aman then ended the inspection and left the Property at approximately 4:10 pm.

Attachments

List of Attachments:

1. Copy of complaints received by EPA concerning renovation activities located at 6 Mitchell Street in Nashua, New Hampshire
2. Copy of RRP Inspection Checklist
3. Copy of signed Notice of Inspection form
4. Copy of signed TSCA Inspection Confidentiality Notice form
5. Copy of signed Notification of Potential Violation(s) of the Federal Renovation, Repair and Painting Rule form
6. List and copies of photos taken by Mr. Aman of the ongoing renovation at the Property

Attachment 1

**Copy of complaints received by EPA concerning
renovation activities located at 6 Mitchell Street
in Nashua, New Hampshire**



Lead RRP Complaint - Unknown, Work Site is 6 Mitchell Street, Nashua, NH
Sharon Hayes Mr. Alexander Aman

10/03/2012 05:08 PM

Sharon Hayes Lead RRP Complaint - Unknown, Work Site is 6 Mitchell Street, Nashua, NH

Sharon M. Hayes, Manager
Toxics and Pesticides Unit
US EPA Region 1 (New England)
5 Post Office Square, Suite 100 (OES05-1)
Boston, MA 02109-3912
617-918-1328 (phone)
617-918-0328 (fax)
hayes.sharon@epa.gov
----- Forwarded by Sharon Hayes/R1/USEPA/US on 10/03/2012 05:06 PM -----

From: Ken Rota/R1/USEPA/US
To: Sharon Hayes/R1/USEPA/US@EPA
Date: 09/05/2012 07:45 AM
Subject: Fw: (TSCA - FY12-98214-3712-CV) Referred to Region - New Hampshire

Sharon,

An alleged RRP complaint in Concord, NH.

Ken

Kenneth B. Rota, Senior Enforcement Analyst
OES Enforcement Office
US EPA - New England Region
5 Post Office Square, Suite 100
Boston, MA 02109-3912

State: New Hampshire

Zip: 03301



Alleged Violator's Name: unknown

Alleged Violator's Address: unknown

Alleged Violator's City: unknown

Alleged Violator's State: New Hampshire

Alleged Violator's Zip: unknown

Tip or Complaint: Scraped loose paint from exterior of 2 story house at #6 Mitchell St. No attempt at containment. There is still all of the paint chips on the ground
Specific Directions: Amherst St Nashua, NH to Mitchell St. , Nashua NH. Last house on left.

Violation Still Occurring? Yes

State DEP/DEQ/DEM Notified? No



(324163056) Lead-Based Paint Renovation, Repair and Painting Rule
Tip/Complaint Form

idaemon.rtpnc.epa.gov to: Group R1-1018Tip, Jun Ng

11/20/2012 04:30 PM

idaemon.rtpnc.epa.gov (324163056) Lead-Based Paint Renovation, Repair and Painting Rule Tip/Cc

- 01) <--- : (1a) Contractor's Info: --->
- 02) Name: Brian Colsia/MAK Realty Investments LLC
- 03) Street: 8030 S. Willow Street
- 04) City: Manchester
- 05) State: NH
- 06) ZIP: 03103
- 07) Phone #: 603-661-8018
- 08) Alternate Phone #:
- 09)
- 10) <--- : (1b) Property Owner's or Manager's Info: --->
- 11) Name: Same as contractor
- 12) Street:
- 13) City:
- 14) State:
- 15) ZIP:
- 16) Phone #:
- 17) Alternate Phone #:
- 18)
- 19) <--- : (1c) Address of Residence/Child-Occupied Facility Where Alleged
Violation Occurred: --->
- 20) Street: 6 Mitchell Street
- 21) City: Nashua
- 22) State: NH
- 23) ZIP: 03064
- 24)
- 25) <--- : (1d) Your Name, Address, and Telephone Number: --->
- 26) You are a: Other
- 27) You are Other:
- 28) Name: [REDACTED]
- 29) Street: [REDACTED]
- 30) City: [REDACTED]
- 31) State: [REDACTED]
- 32) ZIP: [REDACTED]
- 33) Phone: [REDACTED]
- 34) Alternate Phone #:
- 35) E-mail:
- 36)
- 37) <--- : (2) General Information: --->
- 38) Painted Surfaces Disturbed in Residence Built Before 1978 or
Child-Occupied Facility?: Yes
- 39) Children Live in Residence?: No
- 40) Children's Ages:
- 41) Children with Elevated Blood Lead Levels?: No
- 42) Housing Type: Private



pics at 6 Mittchel st. Nashua,NH

to:

Alexander Aman

10/01/2012 09:18 AM

Hide Details

From:

To: Alexander Aman/R1/USEPA/US@EPA

Please respond to

History: This message has been replied to.

3 Attachments



001.JPG 002.JPG 003.JPG

Attachment 2

Copy of RRP Inspection Checklist

EPA Region 1 RRP Inspection Checklist—TARGET HOUSING

Inspection Date: 07/18/12

Inspection Number: F15895 01

A1. EPA INSPECTORS

Inspector Name(s)	Inspector Credentials Presented
1 (Author) Alexander Aman	Yes / To: Brian W. Colsia
2	Yes / To: Danielle LeBlanc
3	Yes / To:

A2. OTHER INSPECTORS

Inspector Name(s)	Agency
1	
2	

B. PRELIMINARY INFORMATION

<u>Inspection Type</u>	RRP Work Practice
<u>Facility Type</u>	Single Family Target Housing
<u>Time of Arrival</u>	
<u>Time of Departure</u>	
<u>Entry</u>	Verbal from Brian W. Colsia
<u>NOI</u>	See Inspection Report Attachment # 3
<u>CBI Form</u>	See Inspection Report Attachment # 4
<u>Receipt for Documents</u>	NA
<u>Work ongoing?</u>	Yes
<u>Workers present?</u>	Yes

C. PROPERTY INFORMATION

<u>Address</u>	6 Mitchell Street, Nashua, NH 03064
<u>Information about Building</u> (private home, apt. bldg., vacant, HUD assisted, etc.)	A multistory single family home
<u>Date of construction</u> (indicate: known/estimated/ documentation)	1900 (Known)

Notes:

Mr. Colsia stated that Waterway Realty, LLC had purchased the Property and was renovating the building for resale. Mr. Colsia explained that he did not perform the work himself but had multiple "employees" perform the work. Mr. Colsia stated that the property was not his residence.

D. PROPERTY POINTS OF CONTACT		Notes
<u>Owner / Landlord</u>	Waterway Realty, LLC Brian W. Colsia, Owner/Manager	8030 S. Willow Street Building 3, Unit 5 Manchester, NH 03103
<u>Superintendent</u>	N/A	
<u>Other POCs</u>	N/A	

E. EXEMPTIONS / EXCLUSIONS

- Built after 1978 No "compensation"
- Minor repair & maintenance Emergency Renovation (partially excluded)
- HUD or Federally Funded Renovator Lead Test Kit (date, kit info, sampler, results)
- Inspector/ Risk Assessor Lead Free Certificate Abatement

Target Housing Exemptions (zero bedroom dwelling, housing for elderly or disabled unless child resides)

NOTES:

No exemptions claimed or observed.

F. OCCUPANT INFORMATION

Occupant 1:	<u>Name</u>		Notes House vacant during renovations
	<u>Address</u>		
	<u>Phone #</u>		
	<u>Present?</u>	YES <input type="checkbox"/> NO <input type="checkbox"/>	
Occupant 2:	<u>Name</u>		
	<u>Address</u>		
	<u>Phone #</u>		
	<u>Present?</u>	YES <input type="checkbox"/> NO <input type="checkbox"/>	

Children Present

Child 1:	<u>Name</u>		Notes House vacant during renovations
	<u>Address</u>		
	<u>Age</u>		
	<u>Present?</u>	YES <input type="checkbox"/> NO <input type="checkbox"/>	

Child 2:

<u>Name</u>	
<u>Address</u>	
<u>Age</u>	
<u>Present?</u>	YES <input type="checkbox"/> NO <input type="checkbox"/>

NOTES:

--

G. CERTIFICATION		Notes
<u>Firm 1 - Name</u>	Waterway Realty, LLC	Waterway Realty LLC is also registered in Florida: Waterway Realty LLC 18335 Collins Ave, APT 127 Sunny Isles Beach, FL 33160-2451
<u>Certified?</u>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
<u>Cert. Number</u>		
<u>Cert. Date</u>		
<u>Address</u>	8030 S. Willow Street, Manchester, NH 03103	
<u>Phone #</u>	(603) 759-7669	
<u>Email</u>	gm101020@yahoo.com	
<u>Firm 1 - Renovator 1 - Name</u>		Mr. Colsia stated that multiple "employees" had performed the renovation activities and that none of them were RRP certified. Mr. Colsia is also affiliated with the now inactive company MAK Realty Inc. MAK Realty Inc 42 Heather Ln Concord, NH 03301-2657
<u>Certified?</u>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
<u>Cert. Number</u>		
<u>Cert. Date</u>		
<u>Training Provider</u>		
<u>Address</u>		
<u>Phone #</u>		
<u>Email</u>		
<u>Firm 1 - Renovator 2 - Name</u>		
<u>Certified?</u>	YES <input type="checkbox"/> NO <input type="checkbox"/>	
<u>Cert. Number</u>		
<u>Cert. Date</u>		
<u>Training Provider</u>		
<u>Address</u>		
<u>Phone #</u>		
<u>Email</u>		
<u>Workers trained on-site</u>	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>	

H. RENOVATION INFORMATION

<input checked="" type="checkbox"/> Demolition	<input type="checkbox"/> Gut Renovation	<input checked="" type="checkbox"/> Painting preparation	<input checked="" type="checkbox"/> Siding replacement	<input checked="" type="checkbox"/> Door Repair/ Replacement
<input type="checkbox"/> Weatherization	<input checked="" type="checkbox"/> Roofing/gutters	<input checked="" type="checkbox"/> Window replacement	<input checked="" type="checkbox"/> Window Repair	<input checked="" type="checkbox"/> Other

NOTES:

According to Mr. Colsia, renovation activities included: complete power washing and repainting of the exterior; replacement of window casements; interior wall rehabilitation and replacement of drywall throughout the building; remodeling of first and second story bathrooms; kitchen remodeling including new cabinets, appliances and counters; installation of new flooring throughout the building; and miscellaneous plumbing and electrical work throughout the building. Mr. Colsia also explained that he did not perform the work himself but had multiple "employees" perform the work.

I. RENOVATE RIGHT DISTRIBUTION AND NOTIFICATION

<u>To Dwelling unit--Owner/ Occupant</u>	House vacant during renovations. Waterway Realty, LLC is both the owner and the renovation firm.
<u>To Common areas-- Owner</u>	House vacant during renovations. Waterway Realty, LLC is both the owner and the renovation firm.
<u>To Affected units</u>	
<u>Written acknowledgement</u>	
<u>Signs posted</u>	

J. WORK PRACTICES

Warning signs

At each entry to interior work area
 YES | NO | NA

At edges of exterior work areas
 YES | NO | NA

At entries to evacuated areas (HUD)
 YES | NO | NA

NOTES:

Based on visual observations of the inspector and information provided by Mr. Colsia.

Interior Containment

	YES	NO	NA	YES	NO	NA
Portable objects removed	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Fixed or large objects sealed	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Windows/doors sealed	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Condition of containment materials	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Evidence of dust or debris outside work area	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tack mats in use	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

NOTES:

Based on visual observations of the inspector and information provided by Mr. Colsia, no containment methods were used. Inspector Aman observed dust and debris inside and outside the work area.

Exterior Containment

	YES	NO	NA	YES	NO	NA
Doors/windows closed within 20' of work area at same level	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Doors/windows closed within 20' of work beneath work area	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

		YES	NO	NA	YES	NO	NA
Two-layer entry barrier		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sheeting on ground ≥ 10' from work area		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sheeting fixed/stapled to bldg		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sheeting secured at edges		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sheeting raised at edges to aid containment		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input checked="" type="checkbox"/>

NOTES:

Based on visual observations of the inspector and information provided by Mr. Colisia, no containment methods were used. Inspector Aman observed dust and debris inside and outside the work area.

Tools/equipment in use

If a vacuum was used, was it a HEPA vacuum?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> NA <input type="checkbox"/>	Crowbars	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> NA <input type="checkbox"/>	If a Waste chute was used, was it covered?	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>
Power sanders/grinders	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> NA <input type="checkbox"/>	Reciprocal saw (Sawzall)	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> NA <input type="checkbox"/>	Dumpster	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> NA <input type="checkbox"/>
Scrapers	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> NA <input type="checkbox"/>	Pressure washer	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> NA <input type="checkbox"/>	Other:	

NOTES:

Based on visual observations of the inspector and information provided by Mr. Colisia.

Prohibited practices

Torches or open flame	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	Other high-speed mechanical means	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Sanders/grinders without HEPA	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	Heat gun ≥ 1100°F	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Stripping with non-approved chemicals	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		

NOTES:

Based on visual observations of the inspector and information provided by Mr. Colsia no prohibited practices were used.

Cleaning--RRP in progress

All debris and paint chips properly contained YES | NO | NA Tools/equipment stored within containment areas YES | NO | NA

All bags properly sealed and protected YES | NO | NA Visible dust/debris outside of containment YES | NO | NA

NOTES:

Based on visual observations of inspector. See attached photos. Inspector Aman observed dust and debris inside and outside the work area.

Cleaning--RRP complete

All paint chips and debris collected, bagged, and sealed YES | NO | NA Complete a successful visual inspection YES | NO | NA

NOTES:

Work ongoing.

K. CLEANING VERIFICATION

Interior windowsills

Compare wipe tests with verification card YES | NO | NA If necessary, let dry and re-wipe YES | NO | NA

NOTES:

Work ongoing.

Interior floors and counters

Compare wipe tests with verification card YES | NO | NA

Track and record number of wet and dry cloths used on floor sections

YES | NO | NA

If necessary, let dry and re-wipe YES | NO | NA

NOTES:

Work ongoing.

Optional dust clearance testing

Testing must be done by certified inspector/risk assessor/technician YES | NO | NA

Renovator recleans until clearance levels achieved

YES | NO | NA

NOTES:

Not applicable.

Exteriors—Arca must pass visual inspection

NOTES:

Work ongoing.

L. RETAINED RECORDS

Certified Firm Retained Records

(include document numbers for all copies of documents)

Lead test results documenting "no lead" Doc #:	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>	Certified Renovator assigned to project Doc #:	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>
Signed/dated acknowledgments of Renovate Right pamphlet Doc #:	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>	Certified Renovator trained and directed uncertified workers Doc #:	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>
Records of notification activities for common areas and child-occupied facilities Doc #:	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>	Certified Renovator performed post-renovation cleaning verification Doc #:	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>
If emergency existed, documentation of nature of emergency and steps taken outside the Rule. Doc #:	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>		

NOTES:

Work ongoing.

Certified Renovator Retained Records

Non-certified worker training including topics for each worker Doc #:	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>	Documentation of interior, exterior, and passageway containment procedures Doc #:	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>
Documentation of warning sign placement Doc #:	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>	Documentation of exterior ground protection and vertical protection, if used Doc #:	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>
Records of lead testing, if conducted Doc #:	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>	Waste contained on-site and during transport off-site Doc #:	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>
Documentation of post-renovation cleaning process Doc #:	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>	Record of Certified Renovator post-renovation cleaning verification Doc #:	YES <input type="checkbox"/> NO <input type="checkbox"/> NA <input checked="" type="checkbox"/>

NOTES:

Work ongoing.

Certified Firm post-renovation reports to owners or occupants

Provide summary of RRP compliance along with cleaning verification or dust clearance sampling results at the earlier of invoice delivery or 30 days following job completion.

YES | NO | NA

Doc #:

NOTES:

Work ongoing.

Attachment 3

Copy of signed Notice of Inspection form



TOXIC SUBSTANCES CONTROL ACT
TITLE IV - LEAD HAZARD REDUCTION
NOTICE OF INSPECTION

1. INVESTIGATION IDENTIFICATION			3. NAME & ADDRESS OF INSPECTED ENTITY	
DATE	INSPECTION NO.	DAILY SEQ. NO.	Waterway Realty, LLC 8030 S. Willow Street Bldg 3 units 5 Manchester, New Hampshire 03103	
10-3-12	F15895	01		
2. INSPECTOR'S ADDRESS			4. ADDRESS OF INSPECTION	
U. S. Environmental Protection Agency - New England Five Post Office Square - Suite 100 (OES05-4) Boston, MA 02109-3912			6 Mitchell Street Nashua NH	

For Internal EPA Use. Copies may be provided to recipient as acknowledgment of this notice.

RRP INSPECTION

For the purpose of monitoring compliance with the following Subparts of 40 CFR Part 745 Subpart E - Residential Property Renovation (check appropriate blocks):

- A. Information distribution requirements
- B. Work practice standards
- C. Recordkeeping and reporting requirements
- D. Firm certification
- E. Renovator certification and dust sampling technician certification
- F. Other
Disclosure compliance

I certify that the statements I have made on this form and all attachments thereto are true, accurate, and complete. I acknowledge that any knowingly false or misleading statements may be punishable by fine or imprisonment or both under applicable law.

INSPECTOR'S SIGNATURE		RECIPIENT'S SIGNATURE	
NAME Alexander Amen		NAME BRIAN W. COLSIA	
TITLE Inspector	DATE SIGNED 10/3/12	DATE SIGNED 10/3/12	

Attachment 4

Copy of signed TSCA Inspection Confidentiality



US ENVIRONMENTAL PROTECTION AGENCY
 WASHINGTON, DC 20460
TOXIC SUBSTANCES CONTROL ACT
TSCA INSPECTION CONFIDENTIALITY NOTICE

1. INVESTIGATION IDENTIFICATION

DATE: 10-3-12
 INSPECTOR NO.: F15895
 DAILY SEQ. NO.: 01

4. FACILITY NAME

Waterway Realty, LLC

2. INSPECTOR'S NAME

5. ADDRESS

8090 S. Willow Street Bldg 3 Unit 5
 Manchester, New Hampshire 03103

3. INSPECTOR'S ADDRESS

U. S. Environmental Protection Agency - New England
 Five Post Office Square - Suite 100 (OES05-4)
 Boston, MA 02109-3912

6. NAME OF CHIEF EXECUTIVE OFFICER

Brian Colsia

7. TITLE

Owner / Manager

For internal EPA use. Copies may be provided to recipient as acknowledgment of this notice.

TO ASSERT A TSCA CONFIDENTIAL BUSINESS INFORMATION CLAIM

It is possible that EPA will receive public requests for release of the information obtained during the inspection of the facility cited above. Such requests will be handled by EPA in accordance with provisions of the Freedom of Information Act (FOIA), 5 USC 552; EPA regulations issued thereunder, 40 CFR, Part 2; and the Toxic Substances Control Act (TSCA), Section 14. EPA is required to make inspection data available in response to FOIA requests unless the EPA Administrator determines that the data is entitled to confidential treatment, or may be withheld from release under other exceptions of FOIA.

Any or all information collected by EPA during the inspection may be claimed as confidential if it relates to trade secrets, commercial, or financial matters that you consider to be confidential business information (CBI). If you assert a CBI claim, EPA will disclose the information only to the extent, and by means of the procedures set forth in the regulations (cited above) governing EPA's treatment of CBI. Among other things, the regulations require that EPA notify you in advance of publicly disclosing any information claimed as CBI.

A CBI claim may be asserted at any time prior to or during the inspection. If a CBI claim is received after the inspection, EPA will make such efforts as are administratively practicable to protect the information. However, EPA cannot assure that such efforts will be effective in light of the possibility of prior disclosure. If it is more convenient for you to assert a CBI claim on your own stationary or by making the individual documents or samples "TSCA confidential business information," it is not necessary for you to use this notice. The inspector will be glad to answer any questions you may have regarding EPA's CBI procedures.

While you may claim any collected information or sample as CBI, such claims are not likely to be upheld if they are challenged unless the information meets the following criteria:

- Your company has taken measures to protect the confidentiality of the information and it intends to continue to take such measures.

- The information is not, and has not been, reasonably obtainable without your company's consent by other persons (other than governmental bodies), or by use of legitimate means (other than discovery based on showing of special need in a judicial or quasi-judicial proceeding).
- The information is not publicly available elsewhere.
- Disclosure of the information would cause substantial harm to your company's competitive position.

At the completion of the inspection, you will be given a receipt for all documents, samples, and other materials collected. At that time, you may make claims that some or all of the information is CBI.

If you are not authorized by your company to assert a CBI claim, this notice will be sent by certified mail, along with the receipt for documents, samples, and other materials to the Chief Executive Officer of your company within 2 days of this date. The Chief Executive Officer must return a statement specifying any information which should receive CBI treatment.

The statement from the Chief Executive Officer should be addressed to:

Rosina Toscano
 TSCA CBI Document Control Officer
 USEPA-New England
 5 Post Office Square - Suite 100 (OES05-1)
 Boston, MA 02109-3912

and mailed by registered, return-receipt requested mail within 7 calendar days of receipt of this notice. Claims may be made at any time after the inspection, but the inspection data will not be entered into the TSCA/CBI security system until an official confidentiality claim is made. The data will be handled under EPA's routine security system unless and until a claim is made. If no confidentiality claim accompanies the information when it is received by EPA, the information may be made available to the public without further notice to the business.

TO BE COMPLETED BY FACILITY OFFICIAL RECEIVING THIS NOTICE
 acknowledge receipt of this notice:

If there is no one on the premise who is authorized to make CBI claims for this facility, a copy of this notice and other inspection materials will be sent to the company's Chief Executive Officer. If there is another official who should also receive this information, please designate below.

SIGNATURE

Brian W. Colsia

NAME

NAME

BRIAN W. COLSIA

TITLE

TITLE

MANAGER

DATE SIGNED

10-3-12

ADDRESS

Attachment 5

**Copy of signed Notification of Potential
Violation(s) of the Federal Renovation, Repair
and Painting Rule form**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

**Notification of Potential Violation(s) of the
Federal Renovation, Repair and Painting Rule**

On 10/3/12, a U.S. Environmental Protection Agency (EPA) inspector,
observed renovation, repair, and/or painting activities at

6 Mitchell Street, Nashua NH

that potentially in violate the federal **Renovation, Repair and Painting Rule (RRP)**, found at 40 C.F.R. part 745, subparts E, and issued under authority of Subchapter IV of the Toxic Substances and Control Act (TSCA), 15 U.S.C. §§ 2681 - 2692.

The RRP Rule requires that contractors, property managers, and others who disturb painted surfaces in homes, child care facilities and schools built before 1978, be certified and follow specific work practices to prevent lead contamination. Painted surfaces can be disturbed during most renovation, repair, remodeling, painting, and maintenance activities, including window replacement. Common renovation activities like sanding, cutting, and demolition can create hazardous lead dust and chips by disturbing lead-based paint. Lead exposures are harmful to adults and children.

Attached is a list of potential violations of the RRP Rule that were observed by the EPA inspector. **This checklist may NOT include all the potential violations of the RRP Rule that occurred at this location and you should review the Rule to ensure that you are in full compliance.** Enclosed is EPA's compliance assistance material including the RRP Rule and the *Small Entity Compliance Guide to Renovate Right: EPA's Lead Based Paint Renovation, Repair, and Painting Program, dated September 2011*. This material can assist you in future compliance and can serve to provide further information regarding potential violations.

EPA recommends that you/your company promptly take action to remedy any noncompliance. Please keep supporting documents for any remediation efforts you make. If you feel you are in compliance with the RRP Rule, or are not subject to it, please submit an explanation in writing as to why, along with documentation supporting your claim.

Any noncompliance with the RRP Rule may also be a violation of TSCA, for which penalties can be sought. Under Section 16 of TSCA, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, penalties of up to \$37,500 per violation, per day may be assessed upon the finding that a violation of the RRP Rule has occurred.

EPA reserves the right to take further enforcement action under TSCA and other applicable laws, including the right to seek penalties, for any violations of the RRP Rule and TSCA.

If you have any questions or wish to discuss the general circumstances of your case, then please contact:

Name: Alexander Aman

Phone: 617-918-1722

Email: aman.alexander@epa.gov

Observed/Reported Potential Noncompliance with Renovation, Repair and Painting Rule

Information Distribution Requirements

- Did not provide *Renovate Right* pamphlet to owner and/or adult occupants of a dwelling unit.
- Did not provide written notification to tenants of affected units and/or post signs generally describing renovation work in common areas of multi-unit target housing.
- Did not provide written notification to parents and guardians or post signs generally describing renovation work in child-occupied facilities.
- Did not receive necessary written acknowledgments for pamphlets and/or failed to provide sufficient written notices.

Work Place Standards

- Did not post proper warning signs that clearly defined the work area and restricted non-worker access to the work area.
- Did not properly keep dust and debris from contaminating adjacent areas.

Interior Containment:

- Did not cover furnishings and belongings in work area with impermeable plastic sheeting.
- Did not close window(s) within work area.
- Did not close door(s) and HVAC vent(s) within work area and cover with impermeable plastic sheeting.
- Did not cover doors in work area with impermeable plastic sheeting to allow workers to pass through but to also confine dust and debris.
- Did not cover floor with impermeable plastic sheeting 6 ft in all directions from area undergoing renovation.

Exterior Containment:

- Did not close windows and doors within 20 ft from the area undergoing renovations, including on building levels below which renovations were being performed.
- Did not cover doors in work area with impermeable plastic sheeting to allow workers to pass through but to also confine dust and debris.
- Did not cover the ground with impermeable plastic sheeting 10 ft in all directions from the area undergoing renovations and/or take extra precautions (e.g., vertical containment) to ensure that dust and debris did not spread or get tracked out to adjacent areas.

Prohibited Practices :

- Used an open flame or torch to remove paint during renovations.
- Used a heat gun operating over 1,100° Fahrenheit to remove paint during renovations.
- Used a machine operating at high speed (e.g., sander, grinder, power planer, needle gun, abrasive blaster or sandblaster) without HEPA exhaust control to remove paint.

Waste from Renovations:

- Did not keep waste properly contained and securely stored under containment or covered daily during the renovations.
- Did not properly dispose of waste (e.g., gooseneck seal of heavy duty plastic garbage bag) to prevent the release of dust and debris.
- Did not properly dispose of waste water.

Cleaning the Work Area:

- Did not properly clean the work area after the renovation until no dust, debris, chips or residue remained.
- Did not clean up any remaining paint chips, debris, residue from and/or immediately adjacent to work area.
- Did not wet mist and properly dispose of impermeable plastic sheeting in heavy-duty plastic bag or tape completely shut.
- Did not properly clean vertical surfaces in and 2 ft beyond the work area with a HEPA vacuum or damp cloth/towel (*Interior only*).

- Did not clean furnishings and belongings that had been covered with plastic sheeting with a HEPA vacuum and damp cloth/towel (*Interior only*).
- Did not clean carpeted floors in and 2 ft beyond the work area with a HEPA vacuum that is equipped with a beater bar (*Interior only*).
- Did not clean uncarpeted floors in and 2 ft beyond the work area with both a HEPA vacuum and the proper wet mopping method (*Interior only*).

Post Renovation Cleaning and Verification:

- Did not conduct a visual assessment for remaining dust and debris.
- Did not conduct the Post-Renovation Cleaning Verification if window sill(s), countertop(s) and/or uncarpeted floor(s) were present in the work area (*Interior only*).
- Removed warning signs even though visible dust, debris, chips or residue remained.

Recordkeeping and Reporting Requirements

- Did not maintain adequate records to demonstrate compliance for a minimum of three years.
- Did not have EPA Certified Renovator certificate(s) for worker(s).
- Missing or inadequate *Post Renovation Verification Report* upon completion of renovations to property owner and/or adult occupant (if different), or post or make it available to tenants if in multi-unit target housing or to parents and guardians if in a child-occupied facility.
- Did not have EPA Certified Renovation Firm certificate.

Notes:

Inspector's Signature:

Charles G. Clum

Date:

10/3/12

Recipient's Signature:

Date:

Inspector's Initials if Recipient Signature Declined:



ALA, has Council

would like them to verify

Attachment 6

**List and copies of photos taken by Mr. Aman of
the ongoing renovation at the Property**

Photography Log

Renovator Name Waterway Realty, LLC

Site Address 9 Mitchell Street, Nashua, NH

Date October 3, 2012

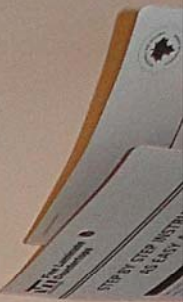
Inspector(s) Aman

Notes:

These photos are available electronically

Photo Number	Camera Number	Photo Name or Description	Site Location of Image
1	423	New kitchen cabinets, floor, and counter with disturbed walls	Kitchen Interior facing W
2	424	Vinyl window with new window trim and sill	Kitchen Interior facing NW
3	425	Hole in plaster wall	Kitchen Interior facing E
4	426	Dust on floor with cleaned area for comparison	First floor living room facing N
5	427	Second floor room with new baseboard, electrical work, and new plywood subflooring over existing floor	Second floor SE room over stairs facing SE
6	428	Second floor hallway outside bathroom with replaced drywall	Second floor hallway outside bathroom facing SW
7	429	Second floor bathroom with new drywall and electric work	Second floor Bathroom facing SE
8	430	Second floor NE room with existing flooring to be floored over	Second floor NE room facing NE
9	431	Second floor hallway outside bathroom with dust and debris	Second floor hallway outside bathroom facing SE
10	432	NW entrance with two removed boards and debris on ground	NW entrance facing SE
11	433	Close-up of debris in stone ground cover adjacent to NW entrance by steps	Adjacent to NW entrance facing SW
12	434	Driveway on NE of building with debris on ground	Driveway NE of building facing SW
13	435	Close-up of debris on ground in driveway on NE of building	Driveway NE of building facing SW
14	436	Driveway on NE of building with debris on ground	Driveway NE of building facing S
15	437	Debris near building perimeter	E side of building facing W
16	438	Close-up of building perimeter with debris on ground	E side of building facing W
17	439	Debris near building perimeter	E side of building near E entrance facing W
18	440	Close-up of deteriorated paint on siding	E side of building near E entrance and porch facing S
19	441	Building perimeter with debris near porch	S side of building near E entrance and porch facing NW
20	442	Inspector Aman pointing to paint debris on ground near E porch	S side of building near E entrance and porch facing N
21	443	Debris near building perimeter	S side of building near E entrance and porch facing NW
22	444	Close-up of debris near building perimeter	S side of building near E entrance and porch facing E
23	445	End of 6 Mitchell Street in Nashua, NH	-

























Alpha Elite Gel











AlphaElite Gel









End of 6 Mitchell Street in
Nashua, NH
Waterway Reality, LLC
10/3/12 EPA Lead RRP
Inspection