

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Delind Development, LTD.
15758 Indian Hollow Road
Grafton, Ohio 44044

Respondent

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Director's Final Findings
and Orders

CLERK OF THE BOARD OF SUPERVISORS
JUN 19 2003

OHIO E.P.A.

OHIO E.P.A.

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Delind Development, LTD., ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or the Facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent, located in Grafton, Ohio, is the developer of Waterford at Wellington ("Facility"), a subdivision consisting of eleven single family home sites, situated on approximately 40.24 acres, and located on the eastside of Montrose Way, north of Cemetery Road, and south of State Route 18, in the Village of Wellington, Lorain County, Ohio.

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

By [Signature] Date 4/19/03

2. Respondent is a domestic liability limited company, incorporated in the State of Ohio.
3. Ohio Administrative Code ("OAC") Rule 3745-31-02 requires the Director's issuance of a permit to install ("PTI") prior to the installation of a new "disposal system," as such term is defined in ORC § 6111.01 (G).
4. ORC § 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by ORC §§ 6111.01 to 6111.08, or violating any rule adopted by the Director pursuant to those sections, including OAC Rule 3745-31-02.
5. PTI Application No. 02-13053, with detailed plans, was received at Ohio EPA Northeast District Office on April 27, 1999, for the installation of a sanitary sewer extension to serve the Facility.
6. The sanitary sewer extension proposed in PTI Application No. 02-13053 is a "disposal system," as such term is defined in ORC § 6111.01(G).
7. On the following dates, Ohio EPA Northeast District Office made requests for revisions to PTI Application No. 02-13053:
 - a. On May 18, 1999, the engineering firm that prepared the plans, R.E. Warner and Associates, was informed, by letter, of revisions necessary for approval; and
 - b. On February 16, 2000, a letter was sent to the engineering firm inquiring as to the status of the revisions.
8. No response was received regarding the above requests.
9. Premised on the information contained in PTI Application No. 02-13053 and pictures of the site, installation of the sanitary sewer extension commenced in Spring 2000.
10. On July 11, 2002, an inspection of the Facility conducted by Ohio EPA Northeast District Office revealed that the installation of the sanitary sewer extension had been completed prior to approval of the plans and issuance of a PTI by Ohio EPA.

11. On July 22, 2002, Respondent was notified via certified mail that installation of the sanitary sewer extension was in violation of ORC Chapter 6111. and OAC Chapter 3745-31, and that the following revisions were required:
 - a. The Antidegradation addendum and PTI form A must be signed by Respondent;
 - b. Item 5 on page A1 of PTI Application No. 02-13053 must indicate the ultimate owner of the sewers;
 - c. The detailed plans must be signed by the Village of Wellington; and
 - d. The detailed plans must be signed and stamped by the design engineer.
12. The requested revisions to PTI Application No. 02-13053 were received by Ohio EPA Northeast District Office on August 9, 2002.
13. Respondent's installation of a new disposal system without a plan approval or PTI is in violation of ORC § 6111.07 and OAC Rule 3745-31-02.
14. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

1. Respondent shall not install sewerage or treatment works for sewage disposal or new disposal systems, including, but not limited to, sanitary sewers, at any location in Ohio without first receiving prior approval from the Director as required by law. Respondent may request termination of this Order upon a demonstration to the satisfaction of Ohio EPA that Respondent has maintained compliance with this Order for a period of three hundred and sixty five (365) days from the effective date of these Orders. Such a request for termination shall be submitted in accordance with Section VI. of these Orders.

2. Respondent shall pay to the Ohio EPA the amount of one thousand sixty-six dollars (\$1,066.00) in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Payment shall be made by tendering an official check made payable to "**Treasurer, State of Ohio**" for the full amount within thirty (30) days of the effective date of these Orders, to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the Facility.

A photocopy of the check shall be sent to Ohio EPA Northeast District Office at the address below:

Ohio Environmental Protection Agency
Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087-1969
Attn: DSW Enforcement Group Leader

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principle business function of Respondent.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to the operation of the Facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XI of these Orders.

XI. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

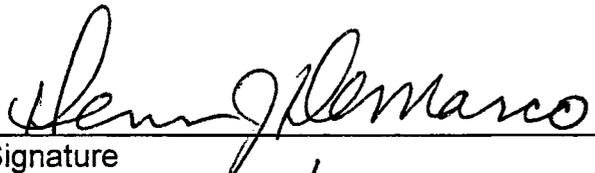
XII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIII. SIGNATORY AUTHORITY

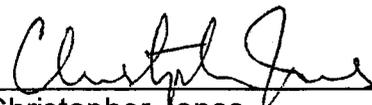
Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO AGREED:
Delind Development, LTD.**


Signature
DENNIS L. DEMARCO
Printed or Typed Name
MANAGING MEMBER
Title

6-2-03
Date

**IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency**


Christopher Jones
Director

6-18-03
Date