

**BOARD OF COUNTY
COMMISSIONERS**

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Mr. Todd Menowitz, Manager
Boca Ciega Partners TC, LP
c/o 3401 37th Street, LLC
9131 Queens Boulevard, Suite 512
Elmhurst, NY 11373

Re: Notice of Violation: Boca Ciega Townhomes, 3401 37th Street South & 3797 37th Street South

CERTIFIED MAIL: 7015 3010 0002 1821 2393

Mr. Menowitz:

Pursuant to Chapters 78-601 and 90-403, Laws of Florida, and the rules promulgated therein, which authorizes and empowers the Pinellas County Air Quality Division (PCAQD) to control, abate and prohibit pollution of the air in Pinellas County, Florida, you are hereby notified of findings which indicate that violations of the Pinellas County Code has taken place as follows:

1. Pinellas County Code, Section 58-149. National emission standard for asbestos 40 CFR, Part 61, Subpart M, 61.145 Standard for demolition and renovation

(a) Applicability. To determine which requirements of paragraphs (a), (b), and (c) of this section apply to the owner or operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos, including Category I and Category II non-friable ACM.

Specifically, Boca Ciega Partners T C, LP caused renovation activities to be performed, and failed to thoroughly inspect the referenced facility for asbestos containing materials prior to the renovation operation. Inspections by PCAQD personnel on March 16, 2017, March 24, 2017, and April 18, 2017 revealed the following approximate quantities of Suspect Asbestos Containing Material (SACM) had been disturbed:

- 108,871 square feet of roofing material (re-roofing of all buildings was completed prior to the March 16, 2017 inspection)
- 3,410 square feet of walls and ceilings in 11 buildings on the Northern parcel (estimated, as renovations were completed prior to the March 16, 2017 inspection).
- An unknown quantity of various types of vinyl floor tiles and vinyl floor sheeting
- 1,516 square feet of drywall/ joint compound in buildings B15, B17, B19, and A18 on the Southern parcel
- 436 square feet of popcorn ceiling texture in buildings B15, B17, B19, and A18 on the Southern parcel
- 722 square feet of orange peel wall texture in buildings B15, B17, B19, and A18 on the Southern parcel

Pinellas County Air Quality
509 East Ave. S. • Suite 138
Clearwater, FL 33756
Main Office: (727) 464-4422
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2. Pinellas County Code, Section 58-149(a). National emission standard for asbestos 40 CFR, Part 61, Subpart M, 61.145 Standard for demolition and renovation

Notification requirements. Each owner or operator of a demolition or renovation activity to which this section applies shall:

(1) Provide the Administrator with written notice of intention to demolish or renovate. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

(3) Postmark or deliver the notice as follows:

(i) At least 10 working days before asbestos stripping or removal work or any other activity begins (such as site preparation that would break up, dislodge or similarly disturb asbestos material), if the operation is described in paragraphs (a) (1) and (4) (except (a)(4)(iii) and (a)(4)(iv)) of this section. If the operation is as described in paragraph (a)(2) of this section, notification is required 10 working days before demolition begins.

Specifically, Boca Ciega Partners T C, LP caused asbestos stripping and removal operations to be performed at the referenced facility, without first submitting written notification to the Pinellas County Air Quality Division, ten working days prior to commencement of demolition activities. Inspections by PCAQD personnel on March 16, 2017, March 24, 2017, and April 18, 2017 revealed the following approximate quantities of Regulated Asbestos Containing Material (RACM) had been disturbed:

- 3,410 square feet total RACM was removed from 11 buildings located at the Northern parcel (estimated, as work/waste procedures of renovations completed prior to the March 16, 2017 inspection could not be determined).
- 1,158 square feet total RACM was removed from buildings B15, B17, B19, and A18 in the Southern parcel (work/waste procedures could be determined)

3. Pinellas County Code, Chapter 58, Section 58-149(a). National emission standard for asbestos 40 CFR, Part 61, Subpart M, 61.145 Standard for demolition and renovation.

(c)(1) Remove all Regulated Asbestos Containing Material (RACM) from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal.

Specifically, all RACM was not removed from the referenced facility prior to the commencement of renovation activities. The renovation activities dislodged RACM from the walls and ceilings of the referenced facility and the disturbed RACM was found in and about the affected areas of the facility.

- On March 24, 2017 approximately 932 square feet of RACM containing walls and ceilings were found to be disturbed.
- On April 18, 2017 approximately 226 square feet of additional RACM containing walls and ceilings were found to be disturbed.

4. Pinellas County Code, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, SUBPART M, 61.145 Standard for demolition and renovation.

(c)(3) When Regulated Asbestos Containing Material (RACM) is stripped from a facility component while it remains in place in the facility, adequately wet the RACM during the stripping operation:

Specifically, RACM was stripped from the referenced facility without adequately wetting the material. The dry disturbed RACM was observed in and about the affected areas of the facility.

- RACM was observed on March 24, 2017
- Additional RACM was observed on April 18, 2017

5. Pinellas County Code, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, Subpart M, 61.145 Standard for demolition and renovation.

(c)(6) Adequately wet the Regulated Asbestos Containing Material and ensure that it remains wet until collected and contained or treated in preparation for disposal.

Specifically, previously stripped RACM did not remain wet and was not properly collected or contained for disposal. Inspection determined no wetting of the stripped RACM was performed. Additionally, the dry asbestos containing waste material was disposed of in open-air waste containers.

- Dry RACM was observed on March 24, 2017
- Additional dry RACM was observed on April 18, 2017

6. Pinellas County Code, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, Subpart M, 61.145 Standard for demolition and renovation.

(c) (4) After a facility component covered with, coated with, or containing RACM has been taken out of the facility as a unit or in sections pursuant to paragraph (c)(2) of this section, it shall be stripped or contained in leak-tight wrapping, except as described in paragraph (c)(5) of this section.

Specifically, disturbed RACM was not contained in leak-tight wrapping until transport and disposal. Stripped, dry RACM waste was observed in and about the affected areas of the facility and in open-air waste containers located on the facility grounds.

- Dry RACM was observed on March 24, 2017
- Additional dry RACM was observed on April 18, 2017

7. Pinellas County Code, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, SUBPART M, 61.150 Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations.

(a) Discharge no visible emissions to the outside air during the collection, processing (including incineration), packaging, or transporting of any asbestos-containing waste material generated by the source, or use one of the emission control and waste treatment methods specified in paragraphs (a)(1) through (4) of this section.

Specifically, dry and disturbed asbestos containing waste material from the stripping operations was observed on the facility grounds and in open-air waste containers located on the facility grounds.

- Dry disturbed RACM was observed on March 24, 2017
- Additional dry disturbed RACM was observed on April 18, 2017

8. Pinellas County Code, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, SUBPART M, 61.145 Standard for demolition and renovation.

(c) (8) Effective 1 year after promulgation of this regulation, no RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this section unless at least one on-site representative, such as a foreman or management-level person or other authorized representative, trained in the provisions of this regulation and the means of complying with them, is present.

Specifically, a trained on-site representative was not present during the removal of RACM.

- RACM removal occurred prior to the March 24, 2017 inspection with no trained representative present on site
- RACM removal occurred sometime between April 5, 2017 and April 18, 2017 with no trained representative present on site

9. Pinellas County Code, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, Subpart M, 61.150 Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations.

(b) All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at: (1) A waste disposal site operated in accordance with the provisions of § 61.154; and (d) For all asbestos-containing waste material transported off the facility site: (2) Provide a copy of the waste shipment record, described in paragraph (d)(1) of this section, to the disposal site owners or operators at the same time as the asbestos-containing waste material is delivered to the disposal site.

Specifically, dry RACM waste material from the renovation operation was transported as construction debris to Waste Management Clearwater Transfer Station. This material was never identified as regulated asbestos containing waste.

10. Pinellas County Code, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, SUBPART M, 61.150 Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations.

(a)(iv) Label the containers or wrapped materials specified in paragraph (a)(1)(iii) of this section using warning labels specified by Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 CFR 1910.1001(j)(4) or 1926.1101(k)(8). The labels shall be printed in letters of sufficient size and contrast so as to be readily visible and legible.

(v) For asbestos-containing waste material to be transported off the facility site, label containers or wrapped materials with the name of the waste generator and the location at which the waste was generated.

Specifically, inspections by PCAQD personnel did not find any of the waste materials wrapped or labeled as per regulation requirements.

11. Pinellas County Code, Chapter 58, Sec. 58-149(a). National emission standard for asbestos 40 CFR, Part 61, SUBPART M, 61.150 Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations.

(5)(c) Mark vehicles used to transport asbestos-containing waste material during the loading and unloading of waste so that the signs are visible. The markings must conform to the requirements of §§61.149(d)(1) (i), (ii), and (iii).

Specifically, investigation by PCAQD personnel revealed markings (signage) were not placed on work vehicles.

Based on the facts stated above, and on the results of the March 16, 2017, March 24, 2017, and April 18, 2017 inspections at the Boca Ciega Townhomes, located at 3401 37th Street South & 3797 37th Street South, St. Petersburg, this serves as a Notice of Violation.

Respond By Phone and in Writing within 10 Days

Please call Cari Burchfield upon receipt of this letter to discuss the resolution of the violations for which Boca Ciega Partners T C, LP may be responsible and follow-up in writing explaining the circumstances that may have led to the alleged violations and propose any corrective action deemed necessary to bring the facility back in compliance. You have the opportunity to request a conference if you feel that the violations did not occur and can provide supporting evidence. The initial discussion with the Division and follow-up written response will not absolve Boca Ciega Partners T C, LP of potential civil penalty.

If Boca Ciega Partners T C, LP does not submit the follow-up written response within ten (10) calendar days of receipt of this Notice of Violation, a Consent Order will be issued specifying compliance conditions along with a penalty of \$80,745.50.


Potential Enforcement Action

Operation of a source in violation of Pinellas County Code, Chapter 58, may result in liability for damage and restoration and judicial imposition of a civil penalty up to a maximum of \$10,000 per violation, per day, pursuant to chapters 78-601 and 90-403, Laws of Florida. Continuation of activities in violation of existing regulations can result in fines being levied for each and every day a violation takes place. Violations may be resolved through entry into a Consent Order or formal enforcement action.

Failure to respond to this notice, or comply within the specified time frames, may result in commencement of civil, administrative or criminal action for injunctive relief and the assessment of civil and/or criminal penalties as provided by this Code, and the Florida Statutes. Also, the State of Florida, Department of Environmental Protection, reserves the right to take enforcement actions related to the potential violations cited above.

If you have any questions regarding this matter, please contact Cari Burchfield at (727) 464-4422.

Sincerely,


Ajaya Satyal
Air Quality Division Manager

Copy: Case File, Read File

