

**ALLEGHENY COUNTY HEALTH DEPARTMENT  
AIR QUALITY PROGRAM**

In the Matter of:

Mark German  
141 Hillpointe Dr.  
Canonsburg, PA 15317

Schaaf Excavating Contractors, Inc.  
1800 Triphammer Rd.  
South Park, PA 15129

Violation No. ASB-21-0103

Violations of Article XXI (“Air  
Pollution Control”) at property:

1704 W Carson St.  
Pittsburgh, PA 15219

**ENFORCEMENT ORDER**

**NOW**, this 22<sup>nd</sup> day of January, 2021, the Allegheny County Health Department (hereinafter “ACHD” or “Department”) issues this Enforcement Order after it has found and determined the following:

1. The Director of the ACHD has been delegated authority pursuant to the federal Clean Air Act, 42 U.S.C. Sections 7401 -7671q (hereinafter “CAA”), and the Pennsylvania Air Pollution Control Act, 35 P.S. Sections 4001-4014 (hereinafter “APCA”), and the ACHD is a local health agency organized under the Local Health Administration Law, 19 P.S. §§ 12001-12028, whose powers and duties include the enforcement of laws relating to public health within Allegheny County including, but not limited to, the ACHD’s Rules and Regulations, Article XXI, Air Pollution Control (Allegheny County Code of Ordinances Chapter 505, 507, and 535) (hereinafter “Article XXI”).

2. The ACHD, through its powers under Article XXI, maintains the authority to regulate all asbestos abatement activity within the boundaries of Allegheny County. Article XXI also incorporates the federal asbestos abatement regulations regarding asbestos abatement activity in Allegheny County, Article XXI § 2105.62.b.

3. Mark German is the owner of a commercial property located at 1704 W. Carson St., Pittsburgh, PA 15219 (Parcel ID: 0007-P-00017-0000-00) (hereinafter “1704 W. Carson St. Property”).

4. Schaaf Excavating Contractors, Inc. (hereinafter “Schaaf Excavating Contractors”) is a Pennsylvania corporation with a registered business address of 1800 Triphammer Rd., South Park, PA 15129.

5. Upon information and belief, Mark German contracted with Schaaf Excavating Contractors to perform demolition work at the 1704 W. Carson St. Property

6. On May 5, 2020, Schaaf Excavating Contractors was issued a permit (DP-2020-01553) by the City of Pittsburgh to demolish a 2-story commercial structure located at the 1704 W. Carson St. Property.

7. On May 26, 2020, an ACHD Representative witnessed the active demolition of the structure located at the 1704 W. Carson St. Property. There was excavating equipment operating on scene and rubble from part of the structure being taken down already. The ACHD Representative spoke to the on-site supervisor and asked for the asbestos survey for the property. He stated they did not have the survey on-site, but one was completed. The ACHD Representative requested a copy of the survey as well as the ACHD Asbestos Abatement and Demolition/Renovation Notification Form.

8. As of May 26, 2020, the ACHD had no record of an Asbestos Abatement and Demolition/Renovation Notification Form and an asbestos survey being submitted for the demolition of the 1704 W. Carson St. Property.

9. On May 26, 2020, the ACHD received a copy of the asbestos survey for the 1704 W. Carson St. Property from the general contractor, Brandon Cahall. The asbestos survey indicated that no asbestos containing materials were identified in the structure.

10. On June 1, 2020, the ACHD received a copy of the Asbestos Abatement and Demolition/Renovation Notification Form for the 1704 W. Carson St. Property. The Form listed the start date of the demolition to begin on June 5, 2020. The ACHD asked Brandon Cahall to correct the start date on the Form.

11. On June 6, 2020, the ACHD received the corrected version of the Asbestos Abatement and Demolition/Renovation Notification Form for the 1704 W. Carson St. Property.

12. As a regulated facility demolition project, the demolition of the commercial structure located at 1704 W. Carson St. is subject to the asbestos abatement requirements of Article XXI, §2105.62.f.

13. Article XXI, § 2105.62.f, provides, in pertinent part, that no person shall demolish, or allow the demolition, of any facility unless the owner of the facility proposed to be demolished has submitted to the ACHD, and the ACHD has received, by no later than 10 days prior to the beginning of the proposed demolition an Asbestos Abatement and Demolition/Renovation Notification Form.

14. The ACHD finds that Mark German and Schaaf Excavating Contractors violated Article XXI, § 2105.62.f, by demolishing the commercial structure located at 1704 W. Carson St. without a prior demolition notice and asbestos survey having been submitted to or received by the ACHD.

**ORDER**

**NOW THEREFORE**, pursuant to the authority granted to the ACHD by Article XXI § 2109.03.a.1 and the Local Health Administration Law, 19 P.S. § 12010, it is hereby ORDERED that:

15. For the violations set forth in the preceding paragraphs, Mark German and Schaaf Excavating Contractors, are herein found to be jointly and severally liable and are hereby assessed a civil penalty of **SEVEN HUNDRED AND FIFTEEN DOLLARS (\$715)**. The civil penalty is as follows:

**A. Gravity Based Component**

<b>Violation</b>	<b>Gravity Based Penalty</b>	<b>Violation Days</b>	<b>Total Gravity Penalty</b>
Failure to submit an Asbestos Notification Form prior to demolition work starting (§2105.62.f)	\$1,300	1	\$1,300
<b>Gravity Component Subtotal</b>			<b>\$1,300</b>

**B. Adjustment Factors**

<b>Size of Violator</b> One to ten employees	<b>(\$585)</b>	
<b>TOTAL CIVIL PENALTY</b>		<b>\$715</b>

16. Mark German and Schaaf Excavating Contractors shall pay the civil penalty amount within thirty (30) days of receipt of this Order. Payment shall be made by corporate or certified check, or the like, made payable to the “Allegheny County Clean Air Fund”, and sent to Air Quality Program manager, Allegheny County Health Department, 301 39<sup>th</sup> Street, Bldg. #7, Pittsburgh, PA 15201.

17. The ACHD has determined the above civil penalty to be in accordance with Article XXI § 2109.06.b. reflecting relevant factors including, but not limited to: the nature, severity and

frequency of the alleged violations; the maximum amount of civil and criminal penalties authorized by law; the willfulness of such violations; the impact of such violations on the public and the environment; the actions taken by Mark German and Schaaf Excavating Contractors to minimize such violations and to prevent future violations; and Mark German and Schaaf Excavating Contractor's compliance history.

18. The gravity based component of the civil penalty reflects the severity of the violation and the potential harm to the public or environment from the violation. The gravity based component may be adjusted for factors and circumstances unique to the violator.

19. The above civil penalty is further adjusted to reflect the size of the company.

20. Please be advised that failure to comply with this Order within the times specified herein is a violation of Article XXI giving rise to the remedies provided by Article XXI § 2109.02 including civil penalties of up to \$25,000 per violation per day.

21. Pursuant to Article XI ("Hearings and Appeals") of the Allegheny County Health Department Rules and Regulations, you are notified that if you are aggrieved by this Order you have thirty (30) days in which to file an appeal from the receipt of this Order. Such a Notice of Appeal shall be filed in the Office of the Director at 542 Fourth Avenue, Pittsburgh, PA 15219. This Order is enforceable upon issuance and any appeal of this Order shall not act as a stay unless the Director of ACHD so orders. In the absence of a timely appeal, the terms of this Order shall become final.

22. Please be aware that if you wish to appeal this Order, you are required within 30 days of receipt of this Order to either forward the penalty amount of the ACHD for placement in an escrow account or post an appeal bond to the ACHD in the amount of the penalty. Please review the specific requirements for prepaying the penalty or posting the appeal bond found in Article

XXI §§ 2109.06.a.2-3. A copy of Article XXI and Article XI may be found at <https://www.alleghenycounty.us/Health-Department/Health-Department-Regulations.aspx>.

**DONE** and **ENTERED** this 22<sup>nd</sup> day of January 2021, in Allegheny County, Pennsylvania.

For:

*Dean DeLuca*

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Dean DeLuca  
Air Quality Program Manager

*1/22/2021*

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Date