

**COUNTY OF**



**ALLEGHENY**

January 8, 2021

**CERTIFIED MAIL – 9489 0090 0027 6037 6752 86**

Flynn Construction Management  
General Contracting, Inc.  
600 Penn Ave.  
Pittsburgh, PA 15221

**RE: Enforcement Order ASB-21-0101 – 5916 Penn Avenue, Pittsburgh, PA 15206, Article XXI § 2105.60**

Dear Sir or Madam,

Please find enclosed a copy of the Enforcement Order pertaining to the operations at 5916 Penn Avenue, Pittsburgh, PA 15206. Also attached is an 'Important Notice' for you to review.

Thank you for your anticipated prompt attention to this matter and future increased efforts to comply with all applicable regulations. Any questions concerning this Order should be directed to the ACHD's representative, Elizabeth Godusky at 412-578-2655 or e-mail at [Elizabeth.Godusky@alleghenycounty.us](mailto:Elizabeth.Godusky@alleghenycounty.us).

Sincerely,

Shannon Sandberg  
Air Quality Manager

cc: Elizabeth Godusky, Air Quality Technician (via email)  
File



DEBRA BOGEN, MD, DIRECTOR  
**ALLEGHENY COUNTY HEALTH DEPARTMENT**  
**AIR QUALITY PROGRAM**  
301 39<sup>TH</sup> STREET • CLACK HEALTH CENTER • BUILDING 7  
PITTSBURGH, PA 15201-1811  
PHONE (412) 578-8103 • FAX (412) 578-8144  
24-HR (412) 687-ACHD (2243)  
[WWW.ALLEGHENYCOUNTY.US/HEALTHDEPARTMENT](http://WWW.ALLEGHENYCOUNTY.US/HEALTHDEPARTMENT)



To: Flynn Construction Management  
General Contracting, Inc.  
600 Penn Ave.  
Pittsburgh, PA 15221

**Re: January 8, 2021 Enforcement Order**

**IMPORTANT NOTICE**

An Enforcement Order dated January 8, 2021, was mailed to you by the Allegheny County Health Department (ACHD) notifying of the possibility that a Civil Penalty will be levied by virtue of your failure to take certain action.

If you fail to take action pursuant to said enforcement order, a judgment may be entered against you in the Court of Common Pleas of Allegheny County. The sheriff may take your money or other property to pay the judgment any time after the judgment is entered.

**YOU ARE WARNED THAT IF YOU FAIL TO CORRECT VIOLATIONS AND/OR PAY FINES OR PENALTIES LEVIED AGAINST YOU IN THE ENFORCEMENT ORDER THAT THE ALLEGHENY COUNTY HEALTH DEPARTMENT MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT FURTHER NOTICE. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.**

Allegheny County Health Department  
Air Quality Program  
301 39th Street, Building #7  
Pittsburgh, PA 15201-1811

**COUNTY OF**



**ALLEGHENY**

January 8, 2021

**CERTIFIED MAIL – 9489 0090 0027 6037 6752 79**

CPR Holdings, No. 1, LLC  
2126 N. Vila Court  
Gibsonia, PA 15044

**RE: Enforcement Order ASB-21-0101 – 5916 Penn Avenue, Pittsburgh, PA 15206, Article XXI § §2105.60**

Dear Sir or Madam,

Please find enclosed a copy of the Enforcement Order pertaining to the operations at 5916 Penn Avenue, Pittsburgh, PA 15206. Also attached is an 'Important Notice' for you to review.

Thank you for your anticipated prompt attention to this matter and future increased efforts to comply with all applicable regulations. Any questions concerning this Order should be directed to the ACHD's representative, Elizabeth Godusky at 412-578-2655 or e-mail at [Elizabeth.Godusky@alleghenycounty.us](mailto:Elizabeth.Godusky@alleghenycounty.us).

Sincerely,

Shannon Sandberg  
Air Quality Manager

cc: Elizabeth Godusky, Air Quality Technician (via email)  
File



DEBRA BOGEN, MD, DIRECTOR  
**ALLEGHENY COUNTY HEALTH DEPARTMENT**  
**AIR QUALITY PROGRAM**  
301 39<sup>TH</sup> STREET • CLACK HEALTH CENTER • BUILDING 7  
PITTSBURGH, PA 15201-1811  
PHONE (412) 578-8103 • FAX (412) 578-8144  
24-HR (412) 687-ACHD (2243)  
[WWW.ALLEGHENYCOUNTY.US/HEALTHDEPARTMENT](http://WWW.ALLEGHENYCOUNTY.US/HEALTHDEPARTMENT)



To: CPR Holdings, No. 1, LLC  
2126 N. Vila Court  
Gibsonia, PA 15044

**Re: January 8, 2021 Enforcement Order**

**IMPORTANT NOTICE**

An Enforcement Order dated January 8, 2021, was mailed to you by the Allegheny County Health Department (ACHD) notifying of the possibility that a Civil Penalty will be levied by virtue of your failure to take certain action.

If you fail to take action pursuant to said enforcement order, a judgment may be entered against you in the Court of Common Pleas of Allegheny County. The sheriff may take your money or other property to pay the judgment any time after the judgment is entered.

**YOU ARE WARNED THAT IF YOU FAIL TO CORRECT VIOLATIONS AND/OR PAY FINES OR PENALTIES LEVIED AGAINST YOU IN THE ENFORCEMENT ORDER THAT THE ALLEGHENY COUNTY HEALTH DEPARTMENT MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT FURTHER NOTICE. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.**

Allegheny County Health Department  
Air Quality Program  
301 39th Street, Building #7  
Pittsburgh, PA 15201-1811

**ALLEGHENY COUNTY HEALTH DEPARTMENT  
AIR QUALITY PROGRAM**

In the Matter of:

CPR Holdings, No. 1, LLC  
2126 N. Villa Court  
Gibsonia, PA 15044

Flynn Construction Management  
General Contracting, Inc  
600 Penn Ave.  
Pittsburgh, PA 15221

Violation No. ASB-21-0101

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

5916 Penn Avenue  
Pittsburgh, PA 15206

**ENFORCEMENT ORDER**

**NOW**, this 8<sup>th</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. CPR Holdings, No. 1, LLC (hereinafter “CPR Holdings”) is a Pennsylvania limited liability company with a registered business address of 2126 N. Villa Court, Gibsonia, PA 15044.

4. Flynn Construction Management General Contracting, Inc. (hereinafter “Flynn Construction Management”) is a corporation with a registered business address of 600 Penn Ave., Pittsburgh, PA 15221.

5. Flynn Construction Management was issued a commercial building alteration permit (Permit No.: 18-B-00339) by the City of Pittsburgh to renovate a commercial structure located at 5916 Penn Ave., Pittsburgh, PA 15206 (Parcel ID: 0084-B-00154-0000-00) for CPR Holdings.

6. On August 20, 2018, the ACHD became aware of plans for renovation activities at a building located at 5916 Penn Avenue, Pittsburgh, PA 15206.

7. On August 21, 2018, an ACHD Representative conducted an inspection of the 5916 Penn Avenue property and found renovations were taking place. The ACHD Representative requested to see the asbestos survey. Flynn Construction Management’s project foreman, Ed Hoffman, did not have the asbestos survey on site.

8. On August 22, 2018, Mr. Hoffman e-mailed what he believed to be the asbestos survey for 5916 Penn Avenue to the ACHD. The document provided was not an asbestos survey.

9. On August 23, 2018, two ACHD Representatives returned to 5916 Penn Avenue and observed several contractors working at the job site. One worker was observed using a grinder to grind mastic on the first floor. ACHD Representatives observed evidence of extensive renovation inside the building.

10. On August 24, 2018, an Administrative Order was issued for 5916 Penn Avenue requiring CPR Holdings to have an asbestos survey performed and ordering that no further

renovation activity could be conducted until they comply with the asbestos survey and notification requirements under 40 C.F.R. § 61.145(a) and Article XXI §§ 2105.62.b, f-h.

11. On August 24, 2018, Allegheny Global Environmental Inc. (hereinafter “Allegheny Global”) performed a limited survey for Asbestos Containing Material (ACM) at 5916 Penn Avenue. PLM analysis of these samples show there were 6 samples of mastic taken that came back positive for ACM.

12. The ACHD requested that the property at 5916 Penn Avenue have TEM air sampling performed. On September 12, 2018, Allegheny Global performed aggressive TEM air sampling on the second floor of 5916 Penn Avenue and the results show no ACM was detected.

13. On September 19, 2018, Allegheny Global took an additional 6 samples of the mastic that came back positive from the first round of sampling due to the amount of sample not being enough to point count.

14. On September 20, 2018, Allegheny Global reported results from their additional 6 samples. Three of the six mastic samples point counted were over 1 percent ACM.

15. On September 27, 2018, two ACHD Representatives collected 4 dust samples at the 5916 Penn Avenue property. Two of these dust samples tested positive for ACM.

16. On October 1, 2018, Phase One Development Corporation submitted an asbestos abatement permit for 5916 Penn Avenue to abate 3,006 square feet of mastic and dust throughout the first and second floor and stairwell.

17. On October 4, 2018, the ACHD issued a permit to Phase One Development Corporation for the abatement work for 5916 Penn Avenue.

18. On October 18, 2018, the ACHD accepted the final clearance inspection for 5916 Penn Avenue and granted the renovation to continue.

19. As a regulated facility renovation project, the renovation of the commercial structure located at 5916 Penn Avenue is subject to the asbestos requirements of Article XXI, and the ACHD has determined that the following provisions have been violated:

- **Article XXI, § 2105.60:** Failure to have a valid Asbestos Abatement Contractor License before removing ACM;
- **Article XXI, § 2105.61:** Failure to have proper accreditation and certification before removing ACM;
- **Article XXI, § 2105.62.b:** Failure to have an asbestos survey performed prior to the start of renovation work;
- **Article XXI, § 2105.62.h:** Failure to obtain an ACHD Asbestos Abatement Permit prior to the removal of 160 square feet or more of ACM;
- **Article XXI, § 2105.63.b:** Failure to post asbestos warning signs at all entrances to the work site;
- **Article XXI, § 2105.63.d:** Failure to prepare the worksite prior to the removal of ACM;
- **Article XXI, § 2105.63.e:** Failure to install a decontamination enclosure system where workers can properly decontaminate themselves before exiting the worksite;
- **Article XXI, § 2105.63.f:** Failure to use standard work practices approved by the ACHD for the removal of ACM;
- **Article XXI, § 2105.63.l:** Failure to dispose of ACM properly (i.e., ensuring ACM remains wet, placing in a leaktight container, labeling, ect.).

20. The ACHD finds that CPR Holdings and Flynn Construction Management violated Article XXI, §2105.60, §2105.61, §2105.62.b, §2105.62.h, §2105.63.b, §2105.63.d, §2105.63.e, §2105.63.f, §2105.63.l., by renovating the commercial structure located at 5916 Penn Ave without first performing an asbestos survey, performing renovation activities without using a licensed asbestos abatement contractor and without using standard work procedures, and without a valid asbestos permit from 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:

21. For the violations set forth in the preceding paragraphs, CPR Holdings and Flynn Construction Management, jointly and severally, are hereby assessed a civil penalty of **NINETEEN THOUSAND, ONE HUNDRED AND SEVENTY DOLLARS (\$19,170)**. 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 have an asbestos contractor perform asbestos work (§2105.60)	\$2,500	1	\$2,500
Removal of asbestos without asbestos certification (§2105.61)	\$2,500	1	\$2,500
Failure to perform an asbestos survey prior to renovation (§2105.62.b)	\$2,500	1	\$2,500
Removal of asbestos without a permit (§2105.62.h)	\$2,500	1	\$2,500
Failure to use standard work practices (§2105.63.b)	\$2,500	1	\$2,500
Failure to properly prepare the work area prior to removing ACM (§2105.63.d)	\$1,300	1	\$1,300
Failure to properly decontaminate worker and equipment following work (§2105.63.e)	\$2,500	1	\$2,500

Failure to prevent release of ACM fibers (§2105.63.f)	\$2,500	1	\$2,500
Failure to properly dispose of ACM (§2105.63.l)	\$2,500	1	\$2,500
<b>Gravity Component Subtotal</b>			<b>\$21,300</b>

**B. Adjustment Factors**

<b>Size of Violator</b> Assets between \$1,000,000 - \$5,000,000	-0.1		<b>(\$2,130)</b>
<b>TOTAL CIVIL PENALTY</b>			<b>\$19,170</b>

22. CPR Holdings and Flynn Construction Management 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.

23. 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 CPR Holdings and Flynn Construction Management to minimize such violations and to prevent future violations; and CPR Holdings and Flynn Construction Management’s compliance history.

24. 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.

25. The above civil penalty is further adjusted to reflect the size of the companies and the value of the 5916 Penn Avenue property, which was purchased for \$3,500,000.

26. 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.

27. Pursuant to Article XI, § 1104.A (“Hearings and Appeals”), of the Allegheny County Health Department Rules and Regulations, you are notified that if you are aggrieved by this Order, a Notice of Appeal shall be filed no later than thirty (30) days after receipt of written notice or issuance 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 the ACHD so orders. In the absence of a timely appeal, the terms of this Order shall become final. Notice of Appeal shall be filed no later than thirty (30) days after receipt of written notice or issuance of the action by which the Appellant is aggrieved.

28. 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 to 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 8<sup>th</sup> day of January 2021, in Allegheny County, Pennsylvania.

For:

  
\_\_\_\_\_  
Dean DeLuca  
Air Quality Program Manager

1/8/2021  
Date