

**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 facility:

5916 Penn Avenue  
Pittsburgh, PA 15206

**CONSENT ORDER AND AGREEMENT**

This Consent Order and Agreement (“Consent Agreement”) is entered into effective this 22nd day of March, 2022 (“Effective Date”), by and between the Allegheny County Health Department (ACHD) and CPR Holdings, No. 1, LLC (the “Appellant,” and together with the ACHD, the “Parties”).

**RECITALS**

**WHEREAS**, the Allegheny County Health Department 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 Chapters 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. With regard to regulations concerning asbestos abatement activity in Allegheny County, Article XXI incorporates the federal asbestos abatement regulations. Article XXI § 2105.62.b.

3. CPR Holdings, No. 1, LLC (hereinafter “CPR Holdings”) is the owner of a commercial structure located at 5916 Penn Ave., Pittsburgh, PA 15206 (Parcel ID: 0084-B-00154-0000-00).

4. Flynn Construction Management was retained by CPR Holdings to renovate the 5916 Penn Ave. property.

5. On August 21 and 23, 2018, ACHD Representatives conducted an inspection of the 5916 Penn Avenue property.

6. On August 24, 2018, the ACHD issued an Administrative Order 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.

7. On August 24, 2018, and September 12, 2018, asbestos testing was performed at the 5916 Penn Avenue property.

8. On October 1, 2018, Phase One Development Corporation submitted an asbestos abatement permit for 5916 Penn Avenue.

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

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

11. On January 8, 2021, the ACHD issued an Enforcement Order against CPR Holdings and Flynn Construction Management (ACHD Violation No. ASB-21-0101) relating to the renovations performed at the 5916 Penn Avenue property. In the Order, the ACHD determined that CPR Holdings and Flynn Construction Management are jointly and severally liable for violations of the ACHD's asbestos regulations set forth in Article XXI.

12. On February 5, 2021, CPR Holdings filed a timely appeal of the January 8, 2021 Enforcement Order.

13. Pursuant to Article XI, § 1104.A ("Hearings and Appeals"), Flynn Construction Management had thirty (30) days after either receipt or issuance of the Enforcement Order to file a Notice of Appeal. Flynn Construction Management received the Order on January 13, 2021. Flynn Construction Management failed to file an appeal of the Order. Due to the failure to file an appeal, the terms and findings of the January 8, 2021 Order are final as to Flynn Construction Management.

**WHEREAS**, the ACHD and Appellant CPR Holdings recognize that this Consent Agreement has been negotiated in good faith and that any actions undertaken by Appellant in accordance with this Consent Agreement do not constitute an admission of fault or liability;

**WHEREAS**, after a full and complete negotiation of all matters set forth in this Consent Agreement and upon mutual exchange of covenants contained herein, the Parties agree that this Consent Agreement is in the best interest of the Parties and the public.

### **AGREEMENT**

After full and complete negotiation of all matters set forth in this Consent Agreement and upon mutual exchange of the covenants contained herein, the Parties intending to be legally bound, it is hereby AGREED to by the Parties as follows:

1. Appellant CPR Holdings consents to the assessment of a civil penalty of Eleven Thousand Dollars (\$11,000.00) (the “Civil Penalty”).

2. The ACHD agrees to withdraw the violations of Article XXI, § 2105.61, and Article XXI, § 2105.62.h against CPR Holdings.

3. The ACHD further agrees to change the adjustment factor for “Size of Violator” to the lowest range.

4. Appellant CPR Holdings shall pay the assessed civil penalty within thirty (30) Calendar Days of the Effective Date by corporate check, or the like, made payable to the “Allegheny County Clean Air Fund,” and sent to the Program Manager, Air Quality Program, Allegheny County Health Department, 301 39th Street, Bldg. No. 7, Pittsburgh, Pennsylvania 15201.

5. Upon payment of the Civil Penalty by CPR Holdings, paid on behalf of CPR Holdings and Flynn Construction Management, which are jointly and severally liable, the ACHD shall be deemed to have fully released Appellants CPR Holdings and Flynn Construction Management for the violations set forth in the Administrative Order dated August 24, 2018, the Enforcement Order dated January 8, 2021 (ACHD Violation No. ASB-21-0101), and all other violations or claims under ACHD’s authority related to the renovations performed at the 5916 Penn Avenue property by or on behalf of CPR Holdings and Flynn Construction Management, whether or not claimed in the Administrative or Enforcement Orders.

6. Upon the ACHD providing Appellant CPR Holdings with a fully executed copy of the Consent Agreement and payment of the Civil Penalty by Appellant, the completion of such actions will be deemed to constitute a withdrawal of the Notice of Appeal of ACHD Violation No. ASB-21-0101 by the Appellant.

7. CPR Holdings hereby waives any right it may have under law to appeal or otherwise challenge the civil penalty assessed by the ACHD pursuant to this Consent Agreement.

#### **GENERAL TERMS**

1. The provisions of this Consent Agreement shall apply to, be binding upon, and inure to the benefit of the ACHD and Appellant and upon their respective officers, directors, agents, contractors, employees, servants, successors, and assigns.

2. Except to enforce the terms of this Consent Agreement, the Parties do not authorize any other Party or other persons to use the findings in this Consent Agreement in any matter or proceeding.

3. The provisions of this Consent Agreement are severable. If any provisions or part thereof is declared invalid or unenforceable, or is set aside for any reason, the remainder of the Consent Agreement shall remain in full effect.

4. This Consent Agreement shall constitute the entire integrated agreement of the Parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.

5. No changes, additions, modifications, or amendments to this Consent Agreement shall be effective unless they are set forth in writing and signed by the Parties hereto.

6. This Consent Agreement shall become effective upon signature by the Parties as of the Effective Date first noted above.

7. The Parties shall bear their respective attorneys' fees, expenses, and other costs with regard to the prosecution or defense of this matter or any related matters arising prior to the execution of this Consent Agreement.

8. This Consent Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Consent Agreement. In addition, signatures sent via facsimile or electronic mail shall constitute original signatures for purposes of this Consent Agreement and a photocopy may be used in place of originals for any purpose.

9. The undersigned representatives of Appellant certify that they are fully authorized to execute this Consent Agreement on behalf of Appellant, and to legally bind Appellant to this Agreement.

**WHEREFORE**, the undersigned party enters into this Consent Agreement.

**FOR CPR HOLDINGS, NO. 1, LLC**



\_\_\_\_\_  
Daniel Petro  
Managing Partner  
CPR Holdings, No. 1, LLC

\_\_\_\_\_  
Date 8/31/21

WHEREFORE, the undersigned party enters into this Consent Agreement.

FOR ALLEGHENY COUNTY HEALTH DEPARTMENT

Dean DeLuca  
Dean DeLuca  
Air Quality Program Manager  
Allegheny County Health Department

3/28/2022  
Date