

**ALLEGHENY COUNTY HEALTH DEPARTMENT  
AIR QUALITY PROGRAM**

**In the Matter of:**

Meyers Management Company : November 22, 2017 Enforcement Order  
1823 Penn Avenue  
Pittsburgh, PA 15221

**CONSENT ORDER**

This CONSENT ORDER is entered into this 26th day of January, 2018 by and between the ALLEGHENY COUNTY HEALTH DEPARTMENT (“ACHD” or the “Department”), and MEYERS MANAGEMENT COMPANY (“MEYERS”).

WHEREAS, the Director of the ACHD has been delegated authority pursuant to the federal Clean Air Act, 42 U.S.C. §§ 7401 et seq., and the Pennsylvania Air Pollution Control Act, 35 P.S. §§ 4001 et seq., and the ACHD is a local health agency organized under Local Health Administration Law, Act 315 of August 24, 1951, P.L. 1304, as amended, 16 Pa.C.S. §12001 et seq., whose powers and duties include the enforcement of laws relating to public health within Allegheny County, including the Allegheny County Health Department’s Rules and Regulations, Article XXI, Air Pollution Control (Article XXI) and;

WHEREAS, on November 22, 2017, Allegheny County, acting by and through the ACHD issued an administrative enforcement order against Meyers for violations of Article XXI and;

WHEREAS, Meyers filed a timely notice of appeal with respect to the November 22, 2017 Enforcement Order and;

WHEREAS, the ACHD Hearing Officer scheduled a hearing on the merits of Meyers appeal for January 22, 2018 and;

WHEREAS, the Parties have conferred and agreed that settlement of the matter was preferred to the possibility of protracted litigation and associated costs and;

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

WHEREAS, the Parties agree that Meyers does not, by the execution of this Consent Order, waive any defenses or cross-claims available to them as a matter of law.

**NOW, THEREFORE**, without any final determination or admission of fact or law, and intending to be legally bound hereby, and with the consent of the Parties, it is hereby **AGREED, ORDERED** and **DECREED** and hereto agree as follows:

I. JURISDICTION

1. Solely for the purposes of this Consent Order and the underlying alleged violations, Meyers waives all objections and defenses it may have to jurisdiction or venue. Meyers shall not challenge ACHD's jurisdiction to enter into or to enforce this Consent Order.

II. APPLICABILITY

2. The provisions of this Consent Order shall apply to, be binding upon, and inure to the benefit of the ACHD and Meyers and upon their respective officers, directors, employees, successors, and assigns.

3. The undersigned representatives of Meyers certify that he or she is fully authorized to execute this Consent Order on behalf of Meyers, and to legally bind Meyers to this Consent Order.

III. CONDITIONS

4. Meyers shall be permitted to take any actions necessary, but which do not conflict with the requirements of all applicable ACHD Rules and Regulations, namely Article XXI, Air Pollution Control (Allegheny County Code of Ordinances Chapters 505, 507, and 535).

5. ACHD agrees to accept and Meyers agrees to pay a total of **\$84,190.00** in full satisfaction of the ACHD's penalty assessment attributable to the violations described in the November 22, 2017 Enforcement Order if such is paid with a lump sum payment of **\$84,190.00 no later than ten (10) days from the date of execution by Meyers.**

6. In consideration for the \$84,190.00 payment, ACHD agrees to waive any and all

claims against it would have against Meyers respecting the asbestos remediation violations which are the subject of the November 22, 2017 Enforcement Order.

7. Meyers shall make the \$84,190.00 payment by corporate 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 39th Street, Building #7, Pittsburgh, PA 15201.

8. The Parties do not authorize any other persons to use the findings in this Consent Order in any matter or proceeding.

9. Nothing herein is intended to limit the authority of the ACHD with respect to violations that may have occurred prior to the date of this Consent Order, if any, and that are not subject of November 22, 2017 Enforcement Order, or to limit the authority of ACHD to seek further enforcement of this Consent Order in the event that Meyers fails comply with its terms and conditions.

10. In the event that Meyers fails to comply with any provision of this Consent Order, the ACHD may, in addition to any remedies prescribed herein, pursue any remedy available under Article XXI, Section 2109 *et seq.* of the Allegheny County Rules and Regulations for a violation of an Order of the ACHD, including an action to enforce this Consent Order.

11. This Consent Order shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for the purposes of determining the meaning or intent of any provisions herein in any litigation or other proceeding.


12. 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 Order.

13. Signatures sent via facsimile or electronic mail shall constitute original signatures for purposes of this Consent Order.


IN WITNESS WHEREOF, the parties hereto have caused this Consent Order to be executed by their duly authorized representatives. The undersigned representatives of Meyers and ACHD certify under penalty of law, as provided by 18 Pa.C.S. § 4909, that he or she is authorized to execute this Consent Order on behalf a party; that Meyers consents to the entry of this Consent Order as a final ORDER of the ACHD; and that, except as otherwise provided herein, Meyers hereby knowingly waives their rights to appeal this Consent Order and to challenge its content or validity, which rights may be available under Article XI of the ACHD Rules and Regulations for Hearings and Appeals, Article XI, and Pennsylvania Administrative Agency Law, 2 Pa.C.S. §103(a), or any other applicable provision of law. Signature by Meyers' attorney certifies only that this Consent Order has been signed after consulting with counsel.

DATED this 26<sup>th</sup> day of January, 2018

For:  
ALLEGHENY COUNTY HEALTH DEPARTMENT

  
Jayme Graham, Air Quality Program Manager for  
The Allegheny County Health Department

1/24/2018  
Date

  
Jason K. Willis, Esq.  
Assistant Solicitor

1/24/18  
Date

For:  
Meyers Management Company

James H. Kozis

1/26/18  
Date

Counsel for Meyers Management Company  
GARL

1-26-18  
Date