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Notice of Appeal

This form is used to file an appeal of an order, notice, decision, determination, or ruling by the Allegheny County Health Department. Please complete this form (use additional pages as necessary). If more than one person or entity is filing this appeal, please attach a separate form for each additional appellant. **A copy of the order, notice, decision, determination, or ruling must be attached to the Notice of Appeal.**

Name Mrs. Marie Gray

Mailing Address 5821 Holden Street

City Pittsburgh State PA Zip 15232 Email graypr@verizon.net

Phone (412) 661-0514 Fax (optional) _____

If you are represented by an attorney, please provide contact information for your attorney:

Name Adam R. Zinsser, Esquire

Bresnahan, Nixon & Finnegan, P.C.

Mailing Address 310 Seven Fields Blvd., Suite 325

City Seven Fields State PA Zip 16046 Email zinsser@hmbn.com

Phone (412) 355-7070 Fax (optional) _____

Describe your objections to the Department's actions and a statement describing the relief you want the Hearing Officer to grant. *(The objections may be factual or legal and must be specific. If you fail to state an objection here, you may be barred from raising it later in your appeal. Use additional pages if necessary.)*

See attached.

By filing this Notice of Appeal with the Allegheny County Health Department, I hereby certify that the information submitted is true and correct to the best of my information and belief.

Signature  Date 11/9/18

Appeals should be submitted in person or by mail to:

**Allegheny County Health Department
Attention: Hearing Officer
542 4th Avenue
Pittsburgh, PA 15219**

NOTICE OF APPEAL – STATEMENT OF OBJECTIONS – MRS. MARIE GREY

Appellant, Mrs. Marie Grey (“Mrs. Grey”), hereby files this Statement of Objections as part of Grey’s Notice of Appeal from the action of the Allegheny County Health Department (the “Department”) set forth in the Department’s October 16, 2018 Notice addressed to Grey (the “Notice”), a copy of which is attached hereto as Exhibit “A.” The Notice alleges Grey is in violation of Section 701.3.1 of Article XV of the Department’s Rules and Regulations because Grey’s property at 5821 Holden Street (“Grey’s Property”) shares a common sewer lateral (the “CSL”) with property owned by Louis D. Klein and Nicole A. Caparanis (collectively “Klein”) located at 5819 Holden Street (“Klein’s Property”). The Notice relies upon a Department Plumbing Inspection Report attached thereto (the “Report”) as proof that the CSL exists. The Notice and Report state that the Department received a Complaint (presumably Complaint 235-18 identified on the Notice), which caused the Department to conduct an inspection of these properties on October 16, 2018, and during this inspection the CSL was allegedly discovered.

Grey objects to the Department’s determination that the CSL exists. The issue of whether a CSL exist first arose in January of 2015 when a problem with Klein’s sewer line caused their basement to flood. Klein came to see if Grey’s basement also flooded (it did not flood), and over the next few days they discussed the estimates Klein received to repair the sewer line and how it would cost him \$4,500.00 and require excavation of his front yard. Shortly thereafter, Klein told Grey that his plumber friend found a way to repair the problem for only \$400.00. Several months later, Grey noticed men digging a trench on Klein’s Property and assumed they were the plumbers hired by Klein to repair the sewer line (“Klein’s Plumbers”). Plaintiff later discovered Klein’s Plumbers digging a trench across her property and alongside her front porch steps, where they had installed a new clean-air vent. When Grey discussed her displeasure with this unexpected work on her property, Klein explained the repair was less expensive because Klein’s Plumbers found a way to connect his sewer line to the sewer line located on Grey’s Property. When Grey questioned the legality of this work, Klein argued he was authorized to do so because their properties shared a sewer line.

In the fifty years Grey has lived at 5821 Holden Street she never was heard anything about a shared a sewer line, so she contact her long-time plumber to investigate. Grey’s Plumber inspected Klein’s Plumbers’ work and determined it was done illegally because they never: (i) applied to the Department for a permit to do the work, (ii) had the work inspected by the Department, and (iii) obtained Grey’s permission to connect Klein’s new sewer line to Grey’s existing sewer line; all of which should have been done before work commenced pursuant to the Department’s Rules and Regulations. Grey’s Plumber also determined that the work done by Klein’s Plumbers posed future problems such as causing Grey’s sewer line to fail or making it very difficult for Grey to sell her property.

After numerous failed attempts by Grey to work with the Klein’s toward an amicable solution, Grey contacted the Department and filed a complaint. On July 24, 2015 Al Lowman, the Department’s plumbing supervisor, and Andrew Grese, a Department plumbing inspector, came to Grey’s Property to investigate the issues raised by Grey. After their investigation concluded, Mr. Lowman informed Grey he would come back the following week to camera the sewer lines, and provided a copy of the Plumbing Inspection Report he completed that day (the “July 24th Report”), a true and correct copy of which is attached hereto as Exhibit “B.” As

explained in the July 24th Report, Mr. Lowman and/or Mr. Grese concluded that Klein's Plumbers decided to tie Klein's sewer line into Grey's sewer line "out of convenience", no plans for this work were ever filed, and Klein needed to excavate the sewer lines, have a master plumber file a plan, and make all necessary repairs as required by the Department. Since that time, the Department has changed its stance on the existence of the sewer line and the legality of the work done by Klein's Plumbers. This led to Grey retaining legal counsel, and the initiation of a lawsuit between Grey and Klein related thereto.

Since July 2016, Grey's counsel has repeatedly requested Mr. Lowman, the Department, Klein, and the County to provide copies of any and all documents, videos, reports, plans, etc. concerning, among other things: (i) the work done by Klein's Plumbers, including any permits, work orders, and/or plans issued by or filed with the Department; (ii) the results of any related inspections, tests or monitoring; (iii) the location of the sewer lines on Grey and/or Klein's property as they existed both before and after Klein's Plumbers completed their work; and (iv) anything related to the alleged CSL. These requests were made orally, in writing, and by submitting right-to-know requests. In addition, Grey has hired numerous plumbers to scope, excavate, or otherwise try to uncover some factual evidence showing what Klein's Plumbers actually did and whether the CSL existed prior to their work, or came into existence as a result thereof.

The Report relied upon by the Notice as proof of the CSL's existence lack factual and evidentiary support for such a conclusion. Similarly, the documents provided by the Department, the County, and its employees in response to Grey's formal and informal requests do not prove that a CSL existed prior to the work performed by Klein's Plumbers. It is therefore reasonable to say that the Department and the County do not possess any document, plan, or inspection report proving the CSL existed prior to Klein's Plumber's performed their illegal work to repair Klein's sewer line. Accordingly, Grey objects to the validity of Notice because of the lack of evidence proving the CSL exists, and if it does, when it came into existence. Grey also objects to the Notice because, if it is found that the CSL came into existence after Klein's Plumbers performed their repair work, Grey should not have to undergo the time and expense to remedy a condition illegally caused by Klein and Klein's Plumbers without her involvement or consent.

The Notice fails to indicate that Klein has received a notice similar to the Notice involved in this appeal. Absent proof that a Notice has been issued by the Department to Klein, Grey objects because Klein is an indispensable party to this action and must be joined pursuant to Section 1104.3, Article XI of the Department's Rules and Regulations.

Grey hereby respectfully requests the Hearing Officer to dismiss the Notice directed to her, and issue an Order directing Klein to remove the sewer line and clean-air vent illegally installed on Grey's property by Klein's Plumbers; to make all necessary repairs to Grey's sewer line and Grey's Property as a result of the illegal work; and to file all necessary paperwork and arrange for inspections thereof to ensure all repairs are completed in accordance with applicable Departments requirements.

COUNTY OF



ALLEGHENY

RICH FITZGERALD
COUNTY EXECUTIVE

October 16, 2018

PROOF OF MAILING

Robert & Marie Gray, Jr.
5821 Holden Street
Pittsburgh, PA 15232-1907

Complaint: 235-18

Dear Mr. & Mrs. Gray:

You are hereby notified that the conditions described on the attached inspection report at **5819 & 5821 Holden St., 7th Ward, City of Pittsburgh**, have been found to be in violation of the noted section of the Allegheny County Health Department (ACHD) Rules and Regulations, **Article XV, "PLUMBING."**

After a complaint was received, it was found that a common building sewer lateral exists between your property and the property located at 5819 Holden Street. You are in violation of Section 701.3.1 (copy attached).

As per Section 701.3.1 when the existence of a common sewer lateral is identified, you must connect to the available public sewer, or in the alternative, an easement and mutual maintenance agreement must be recorded in the deeds of all properties involved. The recording must be done in the Recorder of Deeds Office of Allegheny County within **thirty (30) days** of receipt of this notice and once recorded, a copy of the recording along with a copy of the receipt must be submitted to this office. Failure to comply may result in legal action against you.

Should you care to discuss these violations and methods of correction, you may contact the District Plumbing Office (Monday through Friday from 8:00am to 9:30am) by telephoning Randy Louis, Plumbing Inspector, at 412-578-8392.

Pursuant to Article XI entitled Hearings and Appeals, you are hereby notified that you have thirty (30) days in which to file an appeal from the date of this notice. The notice of appeal shall be in writing and filed in the ACHD Office of the Director, 542 4th Avenue, Pittsburgh, PA 15219. In the event that an appeal is not filed within thirty (30) days from the date of this notice, the within action shall become final.

Sincerely,

Jeffrey A. Czochara
Plumbing Inspector Supervisor

JAC/am
Attachments: Inspection Certificate of 10/16/18 & Noted Section
Cc: Randy Louis
File



KAREN HACKER, MD, MPH, DIRECTOR
ALLEGHENY COUNTY HEALTH DEPARTMENT
PLUMBING PROGRAM

3901 PENN AVENUE • BUILDING 5 • PITTSBURGH, PA 15224-1318
PHONE: 412.578.8033 • 412.578.8033 • WWW.ACHD.NET

EXHIBIT A



ALLEGHENY COUNTY HEALTH DEPARTMENT
PLUMBING INSPECTION REPORT

COMPLAINT # _____ PLAN # _____

PROPERTY ADDRESS: 5819 + 5821 Holden St. 7th Ward C/T
NUMBER STREET MUNICIPALITY

PLUMBERS NAME: 5814 Klein/Cipparanis Gray
LAST FIRST OWNER

TYPE OF BUILDING: SINGLE FAMILY () MULTI-FAMILY () COMMERCIAL ()
 TYPE OF VISIT: INITIAL INSPECTION () REINSPECTION () SUBSEQUENT INSPECTION ()
 TYPE OF TEST: AIR () WATER () OTHER ()
 TIME OF INSPECTION FROM: _____ TO: _____

TYPE OF INSPECTION

STORM DRAIN ()	BUILDING DRAIN ()	WATER SERVICE ()	FINAL ()
STORM SEWER ()	ROUGH ABOVE GROUND ()	WATER HEATER ()	
BUILDING SEWER ()	WATER DISTRIBUTION ()	INDIRECT WASTE ()	OTHER (<input checked="" type="checkbox"/>) (Partial Rough, Partial House Drain, Etc.)

PLUMBING INSPECTOR: [Signature] DATE OF INSPECTION 10-16-18

ACCEPTED BY: _____ TITLE: _____ H.P.# _____

LOCATION IN BUILDING & COMMENTS: 5819 Holden St. + 5821 Holden St.

Share a sewer lateral with no recorded Mutual Maintenance Agreement/Easement.

Owners are to enter a Mutual Maintenance Agreement/Easement and have it recorded in each Deed

OR

Owners can separate from Common Lateral and run new laterals to public main with individual Taps. - Necessary Permits + Inspections would be required.

30 Days to Correct

**ARTICLE XV PLUMBING
RULES AND REGULATIONS OF THE ALLEGHENY COUNTY HEALTH
DEPARTMENT**

AC-701.3.1

EXISTING COMMON SEWER LATERAL

When the Administrative Authority identifies the existence of a common sewer lateral (CSL), that is not recorded in the Recorder of Deeds Office of Allegheny County, it may issue orders to all affected property owners to separately connect to an available public sewer, or in the alternative, to record in the Recorder of Deeds Office of Allegheny County, a document, approved by the Administrative Authority, identifying the existence of the CSL and adequately specifying the maintenance responsibilities for property owners.

ALLEGHENY COUNTY HEALTH DEPARTMENT
PLUMBING INSPECTION REPORT

COPY

COMPLAINT # ✓ 195-15 PLAN # _____

PROPERTY ADDRESS: 5821 Holden ST
NUMBER STREET

MUNICIPALITY 7th C/T _____

PLUMBERS NAME: [Signature]
LAST FIRST

OWNER Marie Gray

TYPE OF BUILDING: SINGLE FAMILY MULTI-FAMILY () COMMERCIAL ()

TYPE OF VISIT: INITIAL INSPECTION REINSPECTION () SUBSEQUENT INSPECTION ()

TYPE OF TEST: AIR () WATER () OTHER ()

TIME OF INSPECTION FROM: 12:45 TO: 1:45

TYPE OF INSPECTION

STORM DRAIN () BUILDING DRAIN () WATER SERVICE () FINAL ()

STORM SEWER () ROUGH ABOVE GROUND () WATER HEATER ()

BUILDING SEWER WATER DISTRIBUTION () INDIRECT WASTE () OTHER ()
(Partial Rough, Partial House Drain, Etc.)

PLUMBING INSPECTOR: [Signature] DATE OF INSPECTION 7-24-15

ACCEPTED BY: Marie Gray TITLE: _____ H.P.# _____

LOCATION IN BUILDING & COMMENTS: Marie Gray owns The Property at 5821 Holden ST. I MET with her Today, IT seems The Neighbor next door at 5819 Holden ST had a Sewer Backup in January. The Neighbor Hired a Plumber To Dig up and repair The Sewer. IT appears To Me THE Plumber Started excavating The Sewer and in doing So Ran into THE Building Sewer at 5821 Holden ST and decided To Tie into IT out of Convenience. There is a new Fresh Air Lid installed on Marie Gray Property where The Connection was made. The Plumber who Did This work was Dave Dushak, and No Plan was ever Filed. The Sewer Needs Dig up and a Plan Needs Filed by a master Plumber To make all Necessary Repairs