

**ALLEGHENY COUNTY HEALTH DEPARTMENT  
AIR QUALITY PROGRAM**

In the Matter of:

George & Carol Fisher  
133 Dorseyville Rd.  
Pittsburgh, PA 15215

Kevin Fisher  
5401 Penn Ave.  
Pittsburgh, PA 15206

Violation No. ASB-22-0603

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

5401 Penn Ave.  
Pittsburgh, PA 15206

**CONSENT ORDER AND AGREEMENT**

**NOW**, this 16<sup>th</sup> day of June 2022 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. George and Carol Fisher are the owners of the property located at 5401 Penn Ave., Pittsburgh, PA 15206 (Parcel ID: 0050-M-00106-0000-00). Kevin Fisher is son of George and Carol Fisher and the representative who the ACHD has been in contact with about the property.

4. On March 18, 2021, an ACHD representative stopped at 5401 Penn Ave. to request an asbestos survey from an active renovation project. The interior of the building was empty and debris was being transferred into a dumpster outside of the building. After speaking with the supervisor on site as well as the owner of the property, it was determined that an asbestos survey was not completed prior to the renovation project at 5401 Penn Ave. A stop work order was issued on March 18, 2021 for work to cease until TEM air sampling for airborne asbestos could be completed on site as well as any further bulk sampling of leftover materials.

5. On April 12, 2021, the ACHD received bulk sample results as well as TEM air and dust sampling from the 5401 Penn Ave. property. All samples taken on March 29, 2021 failed to reveal the presence of asbestos fibers.

6. On April 12, 2021, Kevin Fischer had appealed the Administrative Field Order.

7. Article XXI, § 2105.62.b, requires regulated facilities to have a thorough asbestos survey performed prior to conducting renovation activities.

8. On July 27, 2021, ACHD Representatives and Kevin Fisher met to discuss the violation. During the meeting, Kevin Fisher did not dispute the violation of Article XXI, §2105.62.b, but explained that they were unaware of the asbestos regulation and were not advised of the requirements when applying for the Building Permit.

9. The ACHD finds Kevin Fisher violated Article XXI, §2105.62.b, by completing renovation activities at 5401 Penn Ave without a thorough asbestos survey being completed and provided to ACHD upon request.

**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:

10. For the violation set forth in the preceding paragraphs, Kevin Fisher is hereby assessed a civil penalty of **ONE THOUSAND AND ONE HUNDRED DOLLARS (\$1,100)**.

11. Kevin Fisher 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.

12. 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 Kevin Fisher to minimize such violations and to prevent future violations; and Kevin Fisher’s compliance history.

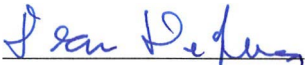
13. Please be advised that failure to comply with this Order within the times specified herein is a violation of Article XXI giving rise to the remedies provided by Article XXI § 2109.02 including civil penalties of up to \$25,000 per violation per day.

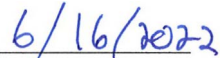
14. Pursuant to Article XI (“Hearings and Appeals”) of the Allegheny County Health Department Rules and Regulations, you are notified that if you are aggrieved by this Order you have thirty (30) days in which to file an appeal from the receipt of this Order. Such a Notice of Appeal shall be filed in 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.

15. 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 16<sup>th</sup> day of June 2022, in Allegheny County, Pennsylvania.

For:

  
Dean DeLuca  
Air Quality Program Manager

  
Date