

COUNTY OF ERIE
DEPARTMENT OF ENVIRONMENT AND PLANNING
DIVISION OF SEWERAGE MANAGEMENT

• • MEMORANDUM • •

TO: MATT A. SALAH, P.E., Secretary, ECSD 1 Board of Managers (BOM)
FROM:  ANGELA M. HORTON, P.E., Coordinator of Sewer Construction Projects
DATE: September 18, 2015
SUBJECT: ECSD 1 BOM – Approval for Compliance Hearing Premium Assessments

Please find attached the compliance hearing summaries to be presented at your next Board of Managers meeting for the property owners listed below. If the violation is not corrected within 30 days of the notification letter being sent, this property will receive a \$100 premium assessment. For each month following non-compliance a \$100/ month will be assessed.

1. **Donald Budziszewski, 47 Barbados Dr, Cheektowaga**, to date has not scheduled an inspection.
2. **Timothy Hall & Laura Stefanone, 4 W Cherbourg, Cheektowaga**, to date has not scheduled an inspection.
3. **Andrew Pruitt & Susan Nurmi, 80 W Toulon, Cheektowaga**, to date has not scheduled an inspection.

Should you have any questions, please contact me at 858-8437 or angela.horton@erie.gov.

MOVED BY: _____

SECONDED BY: _____

APPROVED/DISAPPROVED: _____

DATE: _____

Matt A. Salah, P.E.
SECRETARY

cc: 1.2.2.I&I

V:\Sewerage Management\I&I Program\House Inspection Program\Hearings 5-20-15\BOMtemplateDIFines.doc

MATTHEW J. KIBLER
PARTNER
WRITER'S EXTENSION 208
mkibler@feldmankieffer.com



THE DUN BUILDING
110 PEARL STREET
SUITE 400
BUFFALO, NY 14202

September 15, 2015

Board of Managers
Erie County Sewer District No. 1 (ECSD 1)

Re: Enforcement Hearing - Failure to Permit Inspection
Timothy Hall & Laura Stefanone -4 W Cherboung Dr, Cheektowaga, NY 14227,
SBL 125.06-16-28

Honorable Board Members:

Pursuant to a request by the Board of Managers (BOM) of Erie County Sewer District (ECSD) Nos. 1, 2, 3, 4, 5 and 6 enforcement actions against the individuals referenced on the cover letter were held on May 20, 2015, to determine whether there were violations of Sections 305, 501 and/or 1001 of the Rules and Regulations for Erie County Sewer Districts.

Feldman Kieffer, LLP, was appointed to act as a Hearing Officer with respect to the referenced matter, and this report constitutes a summary of the Compliance (Enforcement) Hearing.

- I. DATE: Wednesday, May 20, 2015
- II. TIME: 1:26 p.m. to 3:30 p.m.
- III. PLACE: Southtowns Advanced Wastewater Treatment Facility (AWTF)
S-3690 Lake Shore Road, Buffalo, New York 14219
- IV. AUTHORITY: Rules and Regulations for Erie County Sewer Districts
(Revised and Adopted March 26, 2009, Erie County Legislature)
- V. RELEVANT PROVISIONS: Article X, Inspections
Section 1001 - Powers and Authority of Inspectors

Article XI, Enforcement
Section 1101 - Notice of Violations
Section 1103 - Enforcement Hearing
Section 1104 - Penalties
- VI. BOARD RESOLUTION: Feldman Kieffer, LLP was retained by the Erie County Division of Sewerage Management (DSM) and Erie County Sewer Districts (ECSDs) as the Hearing Officer per an Agreement dated May 8, 2013.

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VII. PRESENT:

Matthew J. Kibler, Esq., Hearing Officer from Feldman Kieffer, LLP
Angela M. Horton, P.E., Coordinator Sewer Construction Projects,
representing all ECSDs
Richard Rehac, Sewer District Manager, representing ECSDs 1, 4, & 5
Steven Canestrari, Sewer District Manager, representing ECSDs 3 & 6
William Strzeszynski, Sewer District Manager, representing ECSD 2
Patrick Breier, Assistant Sewer District Manager, representing ECSD 2
Beth M. Pfalzer, Data Processing Control Clerk, representing all ECSDs
Gregory Mittner, representing 40 Barbados Rd, Cheektowaga, NY ECSD 1
Marc Massaco, representing 5742 Apollo Dr, Lakeview, NY ECSD 3
Arthur Kuczanski, representing 1151 Borden, Depew, NY ECSD 1

VIII. TESTIMONY:

A. 4 W Cherbourg Dr, Cheektowaga, NY 14227, (Timothy Hall & Laura Stefanone) – Failure to permit inspection.

Ms. Horton submitted into evidence the following documents:

1. A map demonstrating that 4 West Cherbourg Dr, Cheektowaga, NY 14227, is located within ECSD 1.
2. A printout from the Erie County Department of Real Property Tax Service dated May 2015, demonstrating that that 4 West Cherbourg Dr, Cheektowaga, NY 14227 is owned by Timothy Hall & Laura Stefanone since December 28, 2011. Real Property Tax lists a mailing address of P.O. Box 118, Maple Springs, NY 14756.
3. Initial Inspection Request, via U.S. mail, dated June 13, 2014.
4. Second Inspection Request, via U.S. mail, dated July 23, 2014.
5. Third Inspection Request, via U.S. mail, dated September 9, 2014.
6. Final Inspection Request, via U.S. certified mail, dated November 13, 2014. Said U.S. certified mail was signed on delivery by Laura Hall on November 17, 2014.
7. Notice of Hearing, via U.S. first-class mail and certified mail, dated April 20, 2015. Said U.S. certified mail was signed on delivery by L. Hall. Said letter advised Timothy Hall & Laura Stefanone of an Enforcement Hearing to be held on May 20, 2015, between 1:30 p.m. and 3:30 p.m. at the Erie County Southtowns AWTF, S-3690 Lake Shore Road, Buffalo, New York 14219.
8. A DSM database tracking form summarizing property & owner information, inspection letters sent, and comments pertaining to the property.

Ms. Horton stated that a voice message was left with the property owner to schedule an appointment, however the property owner never responded.

The inspection has not been completed as per the Rules and Regulations for Erie County Sewer Districts, adopted March 26, 2009.

All remained present at the Enforcement Hearing until 3:30 p.m. At which time, it was determined that Timothy Hall & Laura Stefanone failed to appear as requested in the Notice of Hearing letter dated April 20, 2015.

IX. FINDINGS:

Considering all evidence presented and testimony heard concerning the premises at 4 W Cherbourg Dr, Cheektowaga, NY 14227, owned Timothy Hall & Laura Stefanone, as Hearing Officer, I find that:

1. The subject premises is located within ECSD 1;
2. That the property owner was given proper Inspection Notices on four occasions pursuant to Section 1001 of the Rules and Regulations for Erie County Sewer Districts;
3. That the property owner was given proper Notice of Hearing for Failure to Permit Inspection pursuant to Section 1103(a) of the Rules and Regulations for Erie County Sewer Districts;
4. That a public sanitary sewer is and was available to the building on the property to be inspected;
5. That there is a building on the property which is intended to be used for human occupancy; and
6. That based on Respondent property owner's failure to appear at the Enforcement Hearing, as requested, a violation of Sections 1001 and 1101 of the Rules and Regulations for Erie County Sewer Districts does therefore exist.

X. RECOMMENDATIONS:

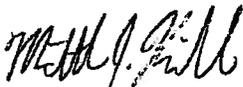
As Hearing Officer, duly appointed pursuant to Section 1103(b) of the Rules and Regulations for Erie County Sewer Districts, I do hereby recommend to the ECSD 1 BOM that:

1. The BOM concur with the findings presented herein;
2. That a "premium assessment" of \$100 be levied for non-compliance;
3. That the Respondent property owner be given 30 days within which to comply. If compliance is made before the 30-day period concludes, the fine may be suspended;
4. If Respondent property owner remains in violation of the duty of permit Initial Inspection, a fine of \$100 shall be levied per month pursuant to Section 1104 - Penalties - of the Rules and Regulations for Erie County Sewer Districts with a maximum penalty of \$10,000;
5. In the event that access is denied or otherwise prevented, the BOM may seek a warrant from a court of competent jurisdiction to enter the subject premises to conduct an Initial Inspection pursuant to Section 1001 of the Rules and Regulations for Erie County Sewer Districts; and
6. Pursuing a warrant to enter these premises shall not limit the application of other remedies under the Rules and Regulations for Erie County Sewer Districts.

I trust that the BOM will concur with the Findings and Recommendations as presented herein. If any questions or further information is required, please do not hesitate to contact me at 716-852-5875.

Thank you for the opportunity to serve on your behalf as Hearing Officer.

Very truly yours,


Matthew Kibler, Esq.

cc: Kristen Walder, Esq., Assistant County Attorney
J. Fiegl / A. Horton / B. Pfalzer / 1.2.2.1&I
R. Rehac / B. Rehac

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THE DCN BUILDING
110 PEARL STREET
SUITE 400
BUFFALO, NY 14202

September 15, 2015

Board of Managers
Erie County Sewer District No. 1 (ECSD 1)

Re: Enforcement Hearing - Failure to Permit Inspection
Andrew Pruitt & Susan Nurmi -80 W Toulon, Cheektowaga, NY 14227, SBL 125.06-17-48

Honorable Board Members:

Pursuant to a request by the Board of Managers (BOM) of Erie County Sewer District (ECSD) Nos. 1, 2, 3, 4, 5 and 6 enforcement actions against the individuals referenced on the cover letter were held on May 20, 2015, to determine whether there were violations of Sections 305, 501 and/or 1001 of the Rules and Regulations for Erie County Sewer Districts.

Feldman Kieffer, LLP, was appointed to act as a Hearing Officer with respect to the referenced matter, and this report constitutes a summary of the Compliance (Enforcement) Hearing.

- I. DATE: Wednesday, May 20, 2015
- II. TIME: 1:26 p.m. to 3:30 p.m.
- III. PLACE: Southtowns Advanced Wastewater Treatment Facility (AWTF)
S-3690 Lake Shore Road, Buffalo, New York 14219
- IV. AUTHORITY: Rules and Regulations for Erie County Sewer Districts
(Revised and Adopted March 26, 2009, Erie County Legislature)
- V. RELEVANT PROVISIONS: Article X, Inspections
Section 1001 - Powers and Authority of Inspectors

Article XI, Enforcement
Section 1101 - Notice of Violations
Section 1103 - Enforcement Hearing
Section 1104 - Penalties
- VI. BOARD RESOLUTION: Feldman Kieffer, LLP was retained by the Erie County Division of Sewerage Management (DSM) and Erie County Sewer Districts (ECSDs) as the Hearing Officer per an Agreement dated May 8, 2013.

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VII. PRESENT: Matthew J. Kibler, Esq., Hearing Officer from Feldman Kieffer, LLP
Angela M. Horton, P.E., Coordinator Sewer Construction Projects,
representing all ECSDs
Richard Rehac, Sewer District Manager, representing ECSDs 1, 4, & 5
Steven Canestrari, Sewer District Manager, representing ECSDs 3 & 6
William Strzeszynski, Sewer District Manager, representing ECSD 2
Patrick Breier, Assistant Sewer District Manager, representing ECSD 2
Beth M. Pfalzer, Data Processing Control Clerk, representing all ECSDs
Gregory Mittner, representing 40 Barbados Rd, Cheektowaga, NY ECSD 1
Marc Massaco, representing 5742 Apollo Dr, Lakeview, NY ECSD 3
Arthur Kuczanski, representing 1151 Borden, Depew, NY ECSD 1

VIII. TESTIMONY:

A. 80 W Toulon, Cheektowaga, NY 14227 (Andrew Pruitt & Susan Nurmi) – Failure to permit inspection.

Ms. Horton submitted into evidence the following documents:

1. A map demonstrating that that 80 W Toulon, Cheektowaga, NY 14227, is located within ECSD 1.
2. A printout from the Erie County Department of Real Property Tax Service dated May 2015, demonstrating that 80 W Toulon, Cheektowaga, NY 14227 is owned by Andrew Pruitt & Susan Nurmi since December 28, 2011.
3. Initial Inspection Request, via U.S. mail, dated June 26, 2014.
4. Second Inspection Request, via U.S. mail, dated August 4, 2014.
5. Third Inspection Request, via U.S. mail, dated September 9, 2014.
6. Final Inspection Request, via U.S. certified mail, dated October 30, 2014. Said U.S. certified mail was returned unsigned and hand delivered by an ECSD staff member on January 5, 2015.
7. Notice of Hearing, via U.S. first-class mail and certified mail, dated April 20, 2015. Said U.S. certified mail has not been returned to ECSD offices. USPS website indicates notices have been left for the homeowner. First class mail has not been returned. Said letter advised Andrew Pruitt & Susan Nurmi of an Enforcement Hearing to be held on May 20, 2015, between 1:30 p.m. and 3:30 p.m. at the Erie County Southtowns AWTF, S-3690 Lake Shore Road, Buffalo, New York 14219.
8. A DSM database tracking form summarizing property & owner information, inspection letters sent, and comments pertaining to the property.

The inspection has not been completed as per the Rules and Regulations for Erie County Sewer Districts, adopted March 26, 2009.

All remained present at the Enforcement Hearing until 3:30 p.m. At which time, it was determined that Andrew Pruitt & Susan Nurmi failed to appear as requested in the Notice of Hearing letter dated April 20, 2015.

IX. FINDINGS:

Considering all evidence presented and testimony heard concerning the premises at 80 W Toulon, Cheektowaga, NY 14227, owned Andrew Pruitt & Susan Nurmi, as Hearing Officer, I find that:

1. The subject premises is located within ECSD 1;
2. That the property owner was given proper Inspection Notices on four occasions pursuant to Section 1001 of the Rules and Regulations for Erie County Sewer Districts;
3. That the property owner was given proper Notice of Hearing for Failure to Permit Inspection pursuant to Section 1103(a) of the Rules and Regulations for Erie County Sewer Districts;
4. That a public sanitary sewer is and was available to the building on the property to be inspected;
5. That there is a building on the property which is intended to be used for human occupancy; and
6. That based on Respondent property owner's failure to appear at the Enforcement Hearing, as requested, a violation of Sections 1001 and 1101 of the Rules and Regulations for Erie County Sewer Districts does therefore exist.

X. RECOMMENDATIONS:

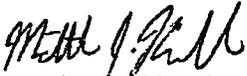
As Hearing Officer, duly appointed pursuant to Section 1103(b) of the Rules and Regulations for Erie County Sewer Districts, I do hereby recommend to the ECSD 1 BOM that:

1. The BOM concur with the findings presented herein;
2. That a "premium assessment" of \$100 be levied for non-compliance;
3. That the Respondent property owner be given 30 days within which to comply. If compliance is made before the 30-day period concludes, the fine may be suspended;
4. If Respondent property owner remains in violation of the duty of permit Initial Inspection, a fine of \$100 shall be levied per month pursuant to Section 1104 - Penalties - of the Rules and Regulations for Erie County Sewer Districts with a maximum penalty of \$10,000;
5. In the event that access is denied or otherwise prevented, the BOM may seek a warrant from a court of competent jurisdiction to enter the subject premises to conduct an Initial Inspection pursuant to Section 1001 of the Rules and Regulations for Erie County Sewer Districts; and
6. Pursuing a warrant to enter these premises shall not limit the application of other remedies under the Rules and Regulations for Erie County Sewer Districts.

I trust that the BOM will concur with the Findings and Recommendations as presented herein. If any questions or further information is required, please do not hesitate to contact me at 716-852-5875.

Thank you for the opportunity to serve on your behalf as Hearing Officer.

Very truly yours,



Matthew Kibler, Esq.

cc: Kristen Walder, Esq., Assistant County Attorney
J. Fiegl / A. Horton / B. Pfalzer / 1.2.2.1&1
R. Rehac / B. Rehac

MATTHEW J. KIBLER
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FELDMAN KIEFFER, LLP
ATTORNEYS AT LAW
(716) 852-5875 • FAX (716) 852-4253
September 15, 2015

THE DUN BUILDING
110 PEARL STREET
SUITE 400
BUFFALO, NY 14202

Board of Managers
Erie County Sewer District No. 1 (ECSD 1)

Re: Enforcement Hearing - Failure to Permit Inspection
Donald Budziszewski – 47 Barbados Dr, Cheektowaga, NY 14227, SBL: 125.06-20-5

Honorable Board Members:

Pursuant to a request by the Board of Managers (BOM) of Erie County Sewer District (ECSD) Nos. 1, 2, 3, 4, 5 and 6 enforcement actions against the individuals referenced on the cover letter were held on May 20, 2015, to determine whether there were violations of Sections 305, 501 and/or 1001 of the Rules and Regulations for Erie County Sewer Districts.

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William Strzeszynski, Sewer District Manager, representing ECSD 2
Patrick Breier, Assistant Sewer District Manager, representing ECSD 2
Beth M. Pfalzer, Data Processing Control Clerk, representing all ECSDs
Gregory Mittner, representing 40 Barbados Rd, Cheektowaga, NY ECSD 1
Marc Massaco, representing 5742 Apollo Dr, Lakeview, NY ECSD 3
Arthur Kuczanski, representing 1151 Borden, Depew, NY ECSD 1

VIII. TESTIMONY:

A. 47 Barbados Dr, Cheektowaga, NY 14227 (Donald Budziszewski) – Failure to permit inspection

Ms. Horton submitted into evidence the following documents:

1. A map demonstrating that 47 Barbados Dr, Cheektowaga, NY 14227, is located within ECSD 1.
2. A printout from the Erie County Department of Real Property Tax Service dated May 2015, demonstrating that that 47 Barbados Dr, Cheektowaga, NY 14227 is owned by Donald Budziszewski since April 27, 2007. Real Property lists a mailing address of 6127 Godfrey Rd, Burt, NY 14028.
3. Initial Inspection Request, via U.S. mail, dated April 9, 2014.
4. Second Inspection Request, via U.S. mail, dated May 16, 2014.
5. Third Inspection Request, via U.S. mail, dated June 19, 2014.
6. Final Inspection Request, via U.S. certified mail, dated August 21, 2014. Said U.S. certified mail was returned unsigned and hand delivered by an ECSD staff member on September 18, 2014.
7. Notice of Hearing, via U.S. first-class mail and certified mail, dated April 20, 2015. Said U.S. certified mail was signed on delivery by Donald Budziszewski on April 25, 2015. Said letter advised Donald Budziszewski of an Enforcement Hearing to be held on May 20, 2015, between 1:30 p.m. and 3:30 p.m. at the Erie County Southtowns AWTF, S-3690 Lake Shore Road, Buffalo, New York 14219.
8. A DSM database tracking form summarizing property & owner information, inspection letters sent, and comments pertaining to the property.

The inspection has not been completed as per the Rules and Regulations for Erie County Sewer Districts, adopted March 26, 2009.

All remained present at the Enforcement Hearing until 3:30 p.m. At which time, it was determined that Donald Budziszewski failed to appear as requested in the Notice of Hearing letter dated April 20, 2015.

IX. FINDINGS:

Considering all evidence presented and testimony heard concerning the premises at 47 Barbados Dr, Cheektowaga, NY 14227, owned by Donald Budziszewski, as Hearing Officer, I find that:

1. The subject premises is located within ECSD 1;
2. That the property owner was given proper Inspection Notices on four occasions pursuant to Section 1001 of the Rules and Regulations for Erie County Sewer Districts;
3. That the property owner was given proper Notice of Hearing for Failure to Permit Inspection pursuant to Section 1103(a) of the Rules and Regulations for Erie County Sewer Districts;
4. That a public sanitary sewer is and was available to the building on the property to be inspected;
5. That there is a building on the property which is intended to be used for human occupancy; and
6. That based on Respondent property owner's failure to appear at the Enforcement Hearing, as requested, a violation of Sections 1001 and 1101 of the Rules and Regulations for Erie County Sewer Districts does therefore exist.

X. RECOMMENDATIONS:

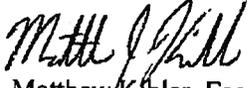
As Hearing Officer, duly appointed pursuant to Section 1103(b) of the Rules and Regulations for Erie County Sewer Districts, I do hereby recommend to the ECSD 1 BOM that:

1. The BOM concur with the findings presented herein;
2. That a "premium assessment" of \$100 be levied for non-compliance;
3. That the Respondent property owner be given 30 days within which to comply. If compliance is made before the 30-day period concludes, the fine may be suspended;
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I trust that the BOM will concur with the Findings and Recommendations as presented herein. If any questions or further information is required, please do not hesitate to contact me at 716-852-5875.

Thank you for the opportunity to serve on your behalf as Hearing Officer.

Very truly yours,


Matthew Kibler, Esq.

cc: Kristen Walder, Esq., Assistant County Attorney
J. Fiegl / A. Horton / B. Pfalzer / 1.2.2.1&I
R. Rezac / B. Rezac