

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

• • MEMORANDUM • •

TO: ANGELA M. HORTON, P.E., Coordinator of Sewer Construction Projects
FROM: BETH M. PFALZER, Administrative Clerk
DATE: September 18, 2015
SUBJECT: ECSD 2 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. **Nickolas & Alisha Mancine, 2175 School St, North Collins**, to date has not scheduled an inspection.
2. **Scott Navel, 8600 Hammond Dr, Eden (mailing address P.O. Box 122, Eden, NY)**, to date has not scheduled an inspection.
3. **Jeremy & Tammy Yetter, 2021 Brant Rd, North Collins**, to date has not scheduled an inspection.
4. **William Francis & Shelly Hunt, 22 Orchard Ave, Angola, NY**, to date has not scheduled an inspection.
5. **Frank Pingitore, 26 Sunset Blvd, Angola, NY** to date has failed to correct the violation: disconnect sump pump from the sanitary sewer and redirect to surface discharge; disconnect laundry tray from sump and connect to sanitary; install a 4" mushroom cap on vent trap.

MOVED BY: _____

SECONDED BY: _____

APPROVED/DISAPPROVED: _____

DATE: _____

Angela M. Horton, P.E.
SECRETARY

cc: 2.2.2.I&I

V:\Sewerage Management\I&I Program\House Inspection Program\Hearings 5-20-15\BOMtemplateD2Fines.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. 2 (ECSD 2)

Re: Enforcement Hearing - Failure to Permit Inspection
Nickolas & Alisha Mancini – 2175 School St, North Collins, NY 14111, SBL 269.16-1-9

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.

*Enforcement Hearing
Page 1 of 4*

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 Rezac, 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 Rd, Depew, NY ECSD 1

VIII. TESTIMONY:

A. 2175 School St, North Collins, NY 14111 (Nickolas & Alisha Mancini) – Failure to permit inspection.

Ms. Horton submitted into evidence the following documents:

1. A map demonstrating that 2175 School St, North Collins, NY 14111, is located within ECSD 2.
2. A printout from the Erie County Department of Real Property Tax Service dated May 2015, demonstrating that that 2175 School St, North Collins, NY 14111 is owned by Nickolas & Alisha Mancini since June 25, 1997. Real Property Tax Service lists a mailing address of 8887 Jennings Rd, Eden, NY 14057.
3. Initial Inspection Request, via U.S. mail, dated June 11, 2013.
4. Second Inspection Request, via U.S. mail, dated August 15, 2013.
5. Third Inspection Request, via U.S. mail, dated October 4, 2013.
6. Final Inspection Request, via U.S. certified mail, dated November 14, 2013. Said U.S. certified mail was returned unclaimed on December 13, 2013.
7. Notice of Hearing, via U.S. first-class mail and certified mail, dated April 20, 2015. Said U.S. certified mail was signed by someone at 8887 Jennings Rd on April 23, 2015. Said letter advised Nickolas & Alisha Mancini of a 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.

Mr. Horton stated that Mr. Mancini contacted the ECSD 2 office stating the house was in foreclosure and that he didn't want to contact his tenants in November of 2013. Mrs. Mancini on the property called and stated that she would contact the tenants to schedule an inspection, but failed to do so in December of 2013. A field check was performed on the property by an ECSD staff member on April 22, 2015 and the home is occupied.

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 Nickolas & Alisha Mancini 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 2175 School St, North Collins, NY 14111, owned by Nickolas & Alisha Mancini, as Hearing Officer, I find that:

1. The subject premises is located within ECSD 2;
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:

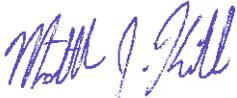
As Hearing Officer, duly appointed pursuant to Section 1103(b) of the Rules and Regulations for Erie County Sewer Districts, I do hereby recommend to the ECSD 2 BOM that:

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 / 2.2.2.I&I
W. Strzeszynski / C. Militello / M. Enders/ N. Forys

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. 2 (ECSD 2)

Re: Enforcement Hearing - Failure to Permit Inspection
Scott Navel – 8600 Hammond Dr, Eden, NY 14057, SBL 238.11-2-10

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.

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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.

*Enforcement Hearing
Page 1 of 4*

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 Rezac, 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 Kuezmanski, representing 1151 Borden Rd, Depew, NY ECSD 1

VIII. TESTIMONY:

A. 8600 Hammond Dr, Eden, NY 14057 (Scott Navel) – Failure to permit inspection.

Ms. Horton submitted into evidence the following documents:

1. A map demonstrating that 8600 Hammond Dr, Eden, NY 14057, is located within ECSD 2.
2. A printout from the Erie County Department of Real Property Tax Service dated May 2015, demonstrating that that 8600 Hammond Dr, Eden, NY 14057 is owned by Scott Navel since July 6, 2006. Real Property Tax Service lists a mailing address of P.O. Box 122, Eden, NY.
3. Initial Inspection Request, via U.S. mail, dated April 10, 2014.
4. Second Inspection Request, via U.S. mail, dated May 29, 2014.
5. Third Inspection Request, via U.S. mail, dated July 17, 2014.
6. Final Inspection Request, via U.S. certified mail, dated August 22, 2014. Said U.S. certified mail was returned unclaimed on September 23, 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 by someone at P.O. Box 122, Eden, NY on April 23, 2015. Said letter advised Scott Navel 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 Scott Navel 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 8600 Hammond Dr, Eden, NY 14057, owned by Scott Navel, as Hearing Officer, I find that:

1. The subject premises is located within ECSD 2;
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:

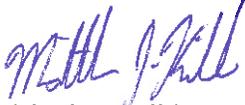
As Hearing Officer, duly appointed pursuant to Section 1103(b) of the Rules and Regulations for Erie County Sewer Districts, I do hereby recommend to the ECSD 2 BOM that:

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 / 2.2.2.I&I
W. Strzeszynski / C. Militello / M. Enders / N. Forys

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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. 2 (ECSD 2)

Re: Enforcement Hearing - Failure to Permit Inspection
Jeremy & Tammy Yetter – 2021 Brant Rd, North Collins, NY 14111, SBL 269.19-8-8.1

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.

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 Kuczmanski, representing 1151 Borden Rd, Depew, NY ECSD 1

VIII. TESTIMONY:

A. 2021 Brant Rd, North Collins, NY 14111 (Jeremy & Tammy Yetter) – Failure to permit inspection.

Ms. Horton submitted into evidence the following documents:

1. A map demonstrating that 2021 Brant Rd, North Collins, NY 14111, is located within ECSD 2.
2. A printout from the Erie County Department of Real Property Tax Service dated May 2015, demonstrating that that 2021 Brant Rd, North Collins, NY 14111 is owned by Jeremy & Tammy Yetter since February 4, 2011.
3. Initial Inspection Request, via U.S. mail, dated May 14, 2013.
4. Second Inspection Request, via U.S. mail, dated June 14, 2013.
5. Third Inspection Request, via U.S. mail, dated August 15, 2013.
6. Final Inspection Request, via U.S. certified mail, dated November 14, 2013. Said U.S. certified mail returned unclaimed on December 13, 2013.
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 a K. Yetter on April 24, 2015. Said letter advised Jeremy & Tammy Yetter 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 Jeremy & Tammy Yetter 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 2021 Brant Rd, North Collins, NY 14111, owned by Jeremy & Tammy Yetter, as Hearing Officer, I find that:

1. The subject premises is located within ECSD 2;
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 2 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 / 2.2.2.I&I
W. Strzeszynski / C. Militello / M. Enders / N. Forys

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



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

September 14, 2015

Board of Managers
Erie County Sewer District No. 2 (ECSD 2)

Re: Enforcement Hearing - Failure to Permit Inspection
William Francis & Shelly Hunt – 22 Orchard Ave, Angola, NY 14006, SBL 235.15-3-20

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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*Enforcement Hearing
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Angela M. Horton, P.E., Coordinator Sewer Construction Projects,
representing all ECSDs
Richard Rezac, 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 ECSD1
Marc Massaco, representing 5742 Apollo Dr, Lakeview, NY ECSD 3
Arthur Kuczmanski, representing 1151 Borden Rd, Depew, NY ECSD 1

VIII. TESTIMONY:

A. 22 Orchard Ave, Angola, NY 14006 (William Francis & Shelly Hunt) - Failure to permit inspection.

Ms. Horton submitted into evidence the following documents:

1. A map demonstrating that 22 Orchard Ave, Angola, NY 14006, is located within ECSD 2.
2. A printout from the Erie County Department of Real Property Tax Service dated May 2015, demonstrating that that 22 Orchard Ave, Angola, NY 14006 is owned by William Francis & Shelly Hunt since April 6, 2005. Letters were being returned from the 22 Orchard Ave address. The homeowners completed an inspection with another property in which they resided in 2013; 29 Commercial Street, Angola, so ECSD staff began to send letters to 29 Commercial Street, and they did not get returned.
3. Initial Inspection Request, via U.S. mail, dated April 4, 2013.
4. Second Inspection Request, via U.S. mail, dated June 20, 2013.
5. Third Inspection Request, via U.S. mail, dated October 3, 2013.
6. Final Inspection Request, via U.S. certified mail, dated July 22, 2014. Said U.S. certified mail signed on delivery by Mr. Francis on July 30, 2014.
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 William Francis & Shelly Hunt 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 William Francis & Shelly Hunt 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 22 Orchard Ave, Angola, NY 14006, owned by William Francis & Shelly Hunt, as Hearing Officer, I find that:

1. The subject premises is located within ECSD 2;
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:

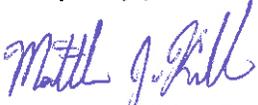
As Hearing Officer, duly appointed pursuant to Section 1103(b) of the Rules and Regulations for Erie County Sewer Districts, I do hereby recommend to the ECSD 2 BOM that:

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 / 2.2.2.I&I
W. Strzeszynski / C. Militello / M. Enders/ N. Forsys

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. 2 (ECSD 2)

Re: Enforcement Hearing - Failure to Correct Violation
Frank Pingitore, 26 Sunset Blvd, Angola, NY 14006, SBL 235.15-2-13

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.

*Enforcement Hearing
Page 1 of 4*

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 Kuczmanski, representing 1151 Borden Rd, Depew, NY ECSD 1

VIII. TESTIMONY:

A. 26 Sunset Blvd, Angola, NY 14006 (Frank Pingitore) – Failure to correct violation.

Ms. Horton submitted into evidence the following documents:

1. A map demonstrating that 26 Sunset Blvd, Angola, NY 14006, is located within ECSD 2.
2. A printout from the Erie County Department of Real Property Tax Service dated May 2015, demonstrating that that 26 Sunset Blvd, Angola, NY 14006 is owned by Frank Pingitore since October 7, 1955.
3. Following an inspection on May 16, 2014 an Initial Violation Notice was sent via U.S. first class mail, dated May 22, 2014, stating violation to be corrected: Disconnect sump pump from the sanitary sewer and redirect to surface discharge; disconnect laundry tray from sump and connect to sanitary; install a 4” mushroom cap on vent trap.
4. Second Violation Request, via U.S. mail, dated September 11, 2014.
5. Third Violation Request, via U.S. mail, dated October 16, 2014.
6. Final Violation Request, via U.S. certified mail, dated March 11, 2015. Said U.S. certified mail was signed on delivery by Frank Pignitore on March 31, 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 Frank Pingitore 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 and violation letters sent, and comments pertaining to the property.

Ms. Horton stated an ECSD staff member performed a field check prior to the hearing and the violation had not been corrected.

The violation has not been corrected 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 Frank Pingitore 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 26 Sunset Blvd, Angola, NY 14006, owned by Frank Pingitore, as Hearing Officer, I find that:

1. The subject premises is located within ECSD 2;
2. That the property owner was given Violation Notices on four occasions;
3. That the property owner was given proper Notice of Hearing for Failure to Correct Violation 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 where a violation exists;
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 305 and/or 501, 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 2 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.

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.

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