

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

• • MEMORANDUM • •

TO: JAMES A. CARR, P.E., Secretary, ECSD 3 Board of Managers (BOM)
FROM:  ANGELA M. HORTON, P.E., Coordinator of Sewer Construction Projects
DATE: September 18, 2015
SUBJECT: ECSD 6 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. **Dennis & Mary Anne Jackson, 88 Verel Ave, Lackawanna, NY**, to date has failed to correct the violation: Disconnect downspouts and sump pump from the sanitary sewer.
2. **Walter Riley, 243/247 Warsaw St, Lackawanna, NY**, to date has failed to correct the violation: Raise low lying vent six inches above ground and replace perforated cap with a mushroom cap.
3. **Richard Ziarkowski, 19 Sunrise Dr, Lackawanna, NY**, to date has failed to correct the violation: Raise low lying vent 6 inches above grade and replace perforated camp with a mushroom cap.

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

MOVED BY: _____

SECONDED BY: _____

APPROVED/DISAPPROVED: _____

DATE: _____

James A. Carr, P.E.
SECRETARY

cc: 6.2.2.I&I

V:\Sewerage Management\I&I Program\House Inspection Program\Hearings 5-20-15\BOMtemplateD6Fines.doc

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



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

September 1, 2015

Board of Managers
Erie County Sewer District No. 6 (ECSD 6)

Re: Enforcement Hearing - Failure to Correct Violation
Dennis & Mary Anne Jackson, 88 Verel Ave, Lackawanna, NY 14218, SBL 142.71-2-18

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, Depew, NY ECSD 1

VIII. TESTIMONY:

A. 88 Verel Ave, Lackawanna, NY 14218 (Dennis & Mary Anne Jackson) – Failure to correct violation.

Ms. Horton submitted into evidence the following documents:

1. A map demonstrating that 88 Verel Ave, Lackawanna, NY 14218, is located within ECSD 6.
2. A printout from the Erie County Department of Real Property Tax Service dated May 2015, demonstrating that that 88 Verel Ave, Lackawanna, NY 14218 is owned by Dennis & Mary Anne Jackson since November 19, 1992.
3. Following an inspection on May 13, 2013 an Initial Violation Notice was sent via U.S. first class mail, dated March 11, 2014, stating violation to be corrected: Disconnect downspouts and sump pump from the sanitary sewer.
4. Second Violation Request, via U.S. mail, dated June 13, 2014.
5. Third Violation Request, via U.S. mail, dated September 17, 2014.
6. Final Violation Request, via U.S. certified mail, dated October 21, 2014. Said U.S. certified mail was returned unsigned and hand delivered by an ECSD staff member; the mail was taped to the door.
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 Dennis & Mary Anne Jackson 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 & 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 Dennis & Mary Anne Jackson 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 88 Verel Ave, Lackawanna, NY 14218, owned by Dennis & Mary Anne Jackson, as Hearing Officer, I find that:

1. The subject premises is located within ECSD 6;
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:

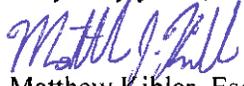
As Hearing Officer, duly appointed pursuant to Section 1103(b) of the Rules and Regulations for Erie County Sewer Districts, I do hereby recommend to the ECSD 6 BOM that:

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.

cc: Kristen Walder, Esq., Assistant County Attorney
J. Fiegl / A. Horton / B. Pfalzer / 6.2.2.I&I
S. Canestrari / P. Breier / C. Baldwin / T. Hicks / T. Gier

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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. 6 (ECSD 6)

Re: Enforcement Hearing - Failure to Correct Violation
Walter Riley, 243/247 Warsaw St, Lackawanna, NY 14218, SBL 142.70-3-19.1

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.

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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

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

VIII. TESTIMONY:

A. 243/247 Warsaw St, Lackawanna, NY 14218 (Walter Riley) – Failure to correct violation.

Ms. Horton submitted into evidence the following documents:

1. A map demonstrating that 243/247 Warsaw St, Lackawanna, NY 14218, is located within ECSD 6.
2. A printout from the Erie County Department of Real Property Tax Service dated May 2015, demonstrating that that 243/247 Warsaw St, Lackawanna, NY 14218 is owned by Walter Riley since June 2, 2011.
3. Following an inspection on April 25, 2013 an Initial Violation Notice was sent via U.S. first class mail, dated June 4, 2013, stating violation to be corrected: Raise low lying vent six inches above grade and replace perforated cap with a mushroom cap.
4. Second Violation Request, via U.S. mail, dated September 10, 2013.
5. Third Violation Request, via U.S. mail, dated April 2, 2014.
6. Final Violation Request, via U.S. certified mail, dated May 27, 2014. Said U.S. certified mail was returned unsigned and hand delivered by an ECSD staff member; Danielle Riley was present at the property and signed for the mail on June 3, 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 Walter Riley of a Compliance 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 & 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 Compliance Hearing until 3:30 p.m. At which time, it was determined that Walter Riley 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 243/247 Warsaw St, Lackawanna, NY 14218, owned by Walter Riley, as Hearing Officer, I find that:

1. The subject premises is located within ECSD 6;
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 Compliance 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 6 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.

cc: Kristen Walder, Esq., Assistant County Attorney
J. Fiegl / A. Horton / B. Pfalzer / 6.2.2.I&I
S. Canestrari / P. Breier / C. Baldwin / T. Hicks / T. Gier

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110 PEARL STREET
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BUFFALO, NY 14202

September 15, 2015

Board of Managers
Erie County Sewer District No. 6 (ECSD 6)

Re: Enforcement Hearing - Failure to Correct Violation
Richard Ziarkowski, 19 Sunrise Dr, Lackawanna, NY 14218, SBL 151.06-5-15

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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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, Cheektowaga, NY ECSD 1
Marc Massaco, representing 5742 Apollo Dr, Lakeview, NY ECSD 3
Arthur Kuczmanski, representing 1151 Borden, Depew, NY ECSD 1

VIII. TESTIMONY:

A. 19 Sunrise Dr, Lackawanna, NY 14218 (Richard Ziarkowski) – Failure to correct violation.

Ms. Horton submitted into evidence the following documents:

1. A map demonstrating that 19 Sunrise Dr, Lackawanna, NY 14218, is located within ECSD 6.
2. A printout from the Erie County Department of Real Property Tax Service dated May 2015, demonstrating that that 19 Sunrise Dr, Lackawanna, NY 14218 is owned by Richard Ziarkowski since November 27, 1998.
3. Following an inspection on October 31, 2011 an Initial Violation Notice was sent via U.S. first class mail, dated June 15, 2012, stating violation to be corrected: Raise low lying vent 6 inches above grade and replace perforated cap with a mushroom cap.
4. Second Violation Request, via U.S. mail, dated April 22, 2013.
5. Third Violation Request, via U.S. mail, dated June 4, 2013.
6. Final Violation Request, via U.S. certified mail, dated August 9, 2013. Said U.S. certified mail was signed on delivery by someone at 19 Sunrise Dr.
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 Richard Ziarkowski 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 and violation letters sent, and comments pertaining to the property.

No known attempts to schedule a reinspection appointment were made by the property owner. 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 Richard Ziarkowski 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 19 Sunrise Dr, Lackawanna, NY 14218, owned by Richard Ziarkowski, as Hearing Officer, I find that:

1. The subject premises is located within ECSD 6;
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:

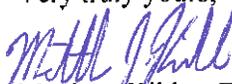
As Hearing Officer, duly appointed pursuant to Section 1103(b) of the Rules and Regulations for Erie County Sewer Districts, I do hereby recommend to the ECSD 6 BOM that:

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.

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Matthew Kibler, Esq.

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S. Canestrari / P. Breier / C. Baldwin / T. Hicks / T. Gier