



Department of Land Use

NEW CASTLE COUNTY CODE OFFICIAL NOTICE OF RULE TO SHOW CAUSE DECISION

RESPONDENT(S):

**GARY STAFFIERI & ADRIA CHARLES
100 SACKVILLE MILLS LA
WALLINGFORD, PA 19086**

**GARY STAFFIERI & ADRIA CHARLES
1707 CONCORD PK
WILMINGTON, DE 19803**

**VIOLATION NOTICE DATE: SEPTEMBER 13, 2013
STOP WORK NOTICE DATE: OCTOBER 9, 2013**

CASE #: 201307544

**LOCATION OF
CODE VIOLATION: 1707 CONCORD PIKE**

PARCEL #: 06-100.00-086

**DATE OF RULE TO
SHOW CAUSE HEARING: OCTOBER 24, 2013**

**DATE OF
DECISION: OCTOBER 25, 2013**

A Rule to Show Cause (RTSC) Hearing was conducted on October 24, 2013, affording the Respondent(s) an opportunity to provide testimony regarding the Stop Work Notice issued on October 10, 2013 attached hereto and incorporated by reference. The hearing was held in the White Clay Room at 11:08 a.m. The following individuals were present:

D. Reed Macmillan
Tracey Ginn
Jim Smith
Chris Yasik
Gary Staffieri

Administrative Hearing Officer
Acting Administrative Aide
Assistant General Manager
NCC Code Enforcement Officer (CEO)
Respondent

FACTS:

1. Mr. Macmillan gave a brief description of the Administrative Hearing process and the appeal process regarding any directive resulting from the hearing. Mr. Macmillan then referred to the Stop Work Notice issued on October 10, 2013, and confirmed receipt by the Respondent. There was an introduction of the hearing attendees.
2. Jim Smith and Officer Chris Yasik were asked by Mr. Macmillan to explain the origins of this case. The following is a brief synopsis of their testimony:

Mr. Smith indicated that New Castle County Code Enforcement has had an open case on this property regarding discharging of soapy water for several months. Mr. Smith continued to explain that the New Castle County Code Chapter 12, Section 12.08.001, B, 1 states that, "it shall be a violation of this chapter to discharge, or cause to allow to be discharged, sewage, industrial wastes, or other wastes into the storm sewer system, or any component thereof, or onto driveways, sidewalks, parking lots, or other areas draining to the storm sewer system." Mr. Smith referred to a May 29, 2013 letter from Ms. Tracy Surles from New Castle County Special Services to the Respondents, informing them that several complaints had been received by New Castle County and the letter also reminded them to comply with Section 12.08.001(B)(1) regarding discharging of material into the storm sewer system. **NOTE:** The letter entered into evidence also recommended the Respondents follow best management practices such as wash pads to contain residual wash water for proper disposal and prevent its

discharge to the storm sewer system. Mr. Smith continued to explain and entered into evidence an electronic mail message from Ms. Jennifer Roushey to Mr. Ray Buchta (and cc'd many other individuals) regarding DNREC's information on a Phase I Municipal Separate Storm Sewer System (MS4) permit in which New Castle County and the Delaware Department of Transportation (DelDOT) are required to maintain an illicit Discharge Detection and Elimination (IDDE) Program. Mr. Smith continued to explain that the e-mail also pointed out that DNREC as the National Pollutant Discharge Elimination System (NPDES) permitting authority works with Delaware's MS4 permittees to assure they are complying with the conditions of their MS4 permit. Mr. Smith continued to explain the e-mail also noted an August 22, 2013 site inspection by permittee representatives who observed washing activities and runoff from these activities discharging into the road and that a sample of this runoff was collected and analyzed later, showing presence of elevated concentrations of detergents. Mr. Smith then entered into evidence a copy of the Potential Illicit Discharge Investigation Documentation Checklist from KCI Contractors who performed an IDDE Investigation at 1707 Concord Pike from April 4, 2013 through August 29, 2013. Mr. Smith continued to explain that New Castle County drafted and issued a Violation Notice dated September 13, 2013 to correct the code violation (12.08.001) as cited in the DelDOT KCI Investigation Report #2013-2 no later than September 26, 2013.

Officer Yasik indicated that he was driving through the area of 1707 Concord Pike on October 9, 2013 and observed a large amount of soapy water discharging from the property into the road. Officer Yasik continued to explain that he posted a Stop Work Notice at the property on October 9, 2013 and explained to the Respondent that water cannot discharge off the property. Officer Yasik indicated that the Respondent took a wet shop vacuum and attempted to collect the water discharge. Officer Yasik continued to explain that he re-inspected the property again on October 17th, October 22nd, and October 23rd and did not observe any further discharge of water. Mr. Smith added that the Respondent was told how to comply and that he cannot continue washing operations until he can comply with the code.

3. Gary Staffieri, the Respondent, was asked by Mr. Macmillan to provide testimony on this case. The following is a brief synopsis of his testimony:

Mr. Staffieri indicated that he wants to comply with all New Castle County Codes and that he washes cars off the property (he allowed RTSC participants to view a large amount of car wash receipts). Mr. Staffieri continued to explain that he did try to collect all discharge with a shop vacuum on October 9, 2013. Mr. Staffieri continued to explain that he is looking into containment systems but has not selected any to date. Mr. Staffieri continued to explain that he believed he had a waiver from New Castle County dated September 15, 2011 (and entered this into evidence) which allowed him to wash cars. **NOTE:** Waiver signed by Dale Streets, Sr. dated September 15, 2011 indicates among other things that only pressure washing outside with no soaps for initial cleaning will take place, and therefore not requiring a sewer agreement. Mr. Staffieri indicated he is looking for specific information regarding a best management practice from New Castle County.

FINDINGS:

1. Regarding Case #201307544, the October 10, 2013 Stop Work Notice was sent as required by Chapter 12; Sec. 12.08.002, A.
2. There were three specific notices to the Respondent regarding the prohibition of discharging soapy water from the operations at the property: (1) a September 15, 2011 Waiver for the Respondent indicated no soap to be used in the operations; (2) a May 29, 2013 letter from Ms. Tracy Surlis from New Castle County Special Services to the Respondent informing them not to discharge into the sanitary sewer; and (3) a September 13, Violation Notice to the Respondent to cease all exterior washing operations until a best management practice was approved. On October 9, 2013 a Code Enforcement Officer witnessed and entered into evidence photographs which depict soapy water discharge runoff from the property into the streets to a sewer inlet.
3. After listening to the testimony from Mr. Smith, Officer Yasik, and Mr. Staffieri, I find the Respondent responsible for violation #1 as depicted in the September 13, 2013 Violation Notice.
4. A review of the Hansen files shows the Respondent as having previous code violations and recently assessed \$300.00 from a October 1, 2013 RTSC Hearing under Case #201307544. Additionally, the Respondent was given

several directives not to allow soapy water discharge off the property and these directives were not met. Therefore, the \$300.00 Rule to Show Cause Hearing Fee will be assessed.

DIRECTIVES:

1. Based on the evidence, the Respondent is found responsible for the violations. The \$300.00 Rule to Show Cause Hearing Fee (per NCC Code Chapter 6, Appendix 4) **is assessed**, pending the completion of the following directives:
 - a. Pay the RTSC Hearing fee no later than **November 26, 2013**,
 - b. Submit into New Castle County a Best Management Plan for collecting the discharged soapy no later than **November 26, 2013**.
2. Should the Respondent not meet any of the timelines listed in 1 a-b above, the Respondent will have been considered to have allowed the violation to continue and will be **assessed \$50.00 per day beginning on November 27, 2013**, until the final inspection has passed and all code violations are cleared (NCC Code Chapter 12, Section 12.08.005, C, 1).
3. Should the Respondent continue to discharge soapy water off the property with no approval from New Castle County, the Respondent will have been considered to have allowed the violation to continue and will be **assessed \$250.00 for the first occurrence, \$500.00 for the second occurrence, \$750.00 for the third occurrence, and \$1,000.00 for the fourth or more occurrences** (NCC Code Chapter 12, Section 12.08.005, C, 1).
4. Should the Respondent not comply with the above-stated directives by the stated timelines, the Respondent will have been considered to have allowed the violations to continue and New Castle County may:
 - a. Forward this case to the New Castle County Law Department (per NCC Code Chapter 12, Section 12.08.005, A) for the appropriate proceeding at law,
 - b. Forward this case to the Code Official (per NCC Code Chapter 6, Section 6.03.001, A, 5) for a "good standing" review, and
 - c. Initiate remedial action to remedy the code violations (per NCC Code Chapter 12, Section 12.08.005, C, 5).
5. Ofc Chris Yasik (302-395-5088, cyasik@nccde.org) is the contact for information and guidance.

FAILURE TO COMPLY WITH THIS DIRECTIVE WILL RESULT IN NEW CASTLE COUNTY TAKING ANY ONE OF THE ENFORCEMENT MECHANISMS OUTLINED IN NEW CASTLE COUNTY CODE, CHAPTER 6, SECTION 6-11.002, CHAPTER 7, SECTION PM 106.3 ET SEQ., CHAPTER 12, SECTION 12.08.001 ET. SEQ. OR CHAPTER 40, DIVISION 40.31.900 OF THE NEW CASTLE COUNTY CODE.

THIS DECISION MAY AFFECT FUTURE LAND USE APPLICATIONS PURSUANT TO NEW CASTLE COUNTY CODE, CHAPTER 40, SECTION 40.31.901.

YOU MAY APPEAL THIS DECISION PURSUANT TO NEW CASTLE COUNTY CODE, CHAPTER 6, SECTION 6-11.003; CHAPTER 7, SECTION PM 106.3.1.5; CHAPTER 12, SECTION 12.08.006; OR CHAPTER 40, SECTION 40.31.510.

DETAILS OF THE NEW CASTLE COUNTY CODE AND APPEAL PROCESS CAN BE REVIEWED AT WWW.NCCDELU.ORG.



D. Reed Macmillan
Administrative Hearing Officer

cc: Chris Yasik
Case File