

STATE OF RHODE ISLAND  
PROVIDENCE, SC.

SUPERIOR COURT

HARTFORD PARK TENANTS ASSOCIATION, :  
DEBRA A. MARTIN, on behalf of herself and as :  
Next friend to her minor child MICHAEL J. MARTIN, :  
SHEILA WILHELM, on behalf of herself and as :  
Next friend to her minor children MIKAELAH :  
WILHELM, JOSHUA WILHELM and RICHARD :  
WILHELM, and NICHOLAS J. MARSELLA :  
: :  
: :

*Plaintiffs*

vs.

C. A. No. 99-3748

RHODE ISLAND DEPARTMENT OF :  
ENVIRONMENTAL MANAGEMENT, :  
CITY OF PROVIDENCE, RHODE ISLAND, :  
PROVIDENCE SCHOOL BOARD, and ALAN SEPE :  
in his capacity as Acting Director of the Department of :  
Public Property of the City of Providence :  
: :  
: :

*Defendants*

2006 APR 17 A 11:24

RECEIVED  
D.E.M./O.W.M.

**REMEDY DIRECTED TOWARDS THE  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

To redress the violations of the Industrial Property Remediation and Reuse Act, R.I.G.L. §23-19.14-1 *et seq.* regarding community involvement and environmental equity, as found by the Court in Conclusions of Law 2, 4, 6, 7 and 8 of its October 3, 2005 Decision, the Rhode Island Department of Environmental Management ("DEM") is hereby ORDERED as follows:

Within 60 days of the clerk's entry of this order, DEM shall establish a stakeholder group to develop legislation, regulations, and/or policies addressing the issues outlined below in a manner that balances the public's interest in participation with the public benefits from the redevelopment of contaminated sites. DEM, in consultation with Plaintiffs, may designate a third-party to facilitate the work of the stakeholder group. Plaintiffs and/or plaintiffs' designees shall be participants in said stakeholder group, which group shall, also, include a fair cross-section of parties having an interest in the investigation, remediation and redevelopment of contaminated sites in environmental equity areas, including but not limited to: tenants; landowners; community and environmental organizations; governmental representatives; elected officials; developers; representatives from the environmental consulting industries and others. The issues to be addressed by the stakeholder group shall include:

- A. Methods for insuring proper notice to abutting property owners and tenants;
- B. DEM's assuming jurisdiction over contaminated sites when DEM has information to suspect a possibility of release or contamination;

FILED IN OPEN COURT

DATE

4-13-06

LINDA A. PICCIRILLI, DEPUTY CLERK

- C. Issues to consider and methods and standards to employ to ensure a "hard look" at environmental equity issues when reviewing clean-up plans for contaminated sites;
- D. Development and implementation of a community involvement process during the investigation and remediation of contaminated sites; and
- E. Establishment of paper and/or electronic document repositories in impacted communities.

The stakeholder group shall use best efforts to reach consensus on any proposals for legislation, regulations or policies within one year of the date of the clerk's entry of this order, provided that the stakeholder group may continue to meet thereafter to accomplish its work. If the group reaches consensus on a proposal for new or amended regulations, policies or legislation, then within ninety (90) days of the date of a written proposal by the stakeholder group DEM shall take the appropriate steps to: promulgate regulations or policies in accordance with the Rhode Island Administrative Procedures Act ("APA"), R.I.G.L. §42-35-1 et seq., and/or introduce legislation for consideration by the General Assembly. Plaintiffs agree that they will not object to or challenge any provision of any regulation, policy or legislation that is proposed by DEM with the consensus of the group.


If the stakeholder group fails to reach consensus on any one or more proposal(s), then DEM may use its best professional judgment to develop regulations, policies or legislation incorporating the comments and information generated during the stakeholder process, the Court's conclusions of law relative to DEM and the intent of this order. For any proposals for which consensus could not be reached that DEM declines to act upon, DEM shall issue a written explanation describing the legal or policy reasons why no action should be taken. Any regulations, policies or legislation developed by DEM shall be promulgated or introduced in accordance with the appropriate process, as stated above.

If the plaintiffs object to any regulation, policy or legislation proposed by DEM in the absence of the consensus of the stakeholder group, or if DEM decides not to develop regulations, policies or legislation due to the absence of consensus of the stakeholder group, then plaintiffs may petition the Court to determine whether DEM's actions amount to contempt of this order.

Nothing in this order shall be construed to prohibit or restrict plaintiffs from exercising any existing legal rights to participate in the APA procedures relative to the promulgation of administrative regulations or policies, to challenge the adoption of regulations or policies, or to lobby the General Assembly with respect to any proposed legislation.

ENTER:

PER ORDER:

  
\_\_\_\_\_

  
\_\_\_\_\_ Deputy Clerk


Dated: April 13, 2006

Dated: April 13, 2006

Submitted by:

PLAINTIFFS:

By their attorney,



Steven Fischbach, Esq. (#3259)

R.I. Legal Services

56 Pine Street, 4<sup>th</sup> Floor

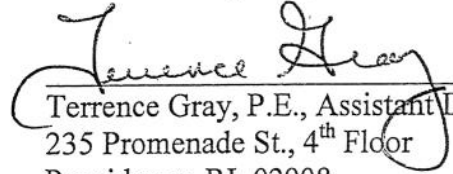
Providence, RI 02903

Tel. 274-2652 x-164

Fax 453-0310

DEFENDANT:

RHODE ISLAND DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT



Terrence Gray, P.E., Assistant Director

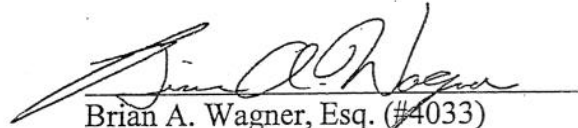
235 Promenade St., 4<sup>th</sup> Floor

Providence, RI 02908

Tel. 222-6677

Fax. 222-6802

As approved by counsel:



Brian A. Wagner, Esq. (#4033)

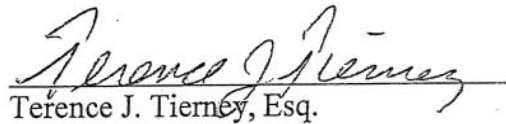
DEM - Deputy Chief Legal Counsel

235 Promenade St., 4<sup>th</sup> Floor

Providence, RI 02908

Tel. 222-6607

Fax. 222-3378



Terence J. Tierney, Esq.

Special Assistant Attorney General

Department of the Attorney General

150 South Main St.

Providence, RI 02903

Tel. 274-4400

Fax 273-4270

## AGREEMENT FOR RESOLUTION OF CLAIMS

In addition to and in consideration of the formal remedy agreed to in the matter of *Hartford Park Tenants Association et al. v. Rhode Island Department of Environmental Management et al.*, C.A. 99-3748, plaintiffs and defendant Rhode Island Department of Environmental Management ("DEM") hereby enter into the agreement set forth below in order to avoid further litigation and to bring this dispute to a final resolution. The within agreement shall be fully enforceable in the Providence County Superior Court under the laws of the State of Rhode Island. Nothing in this agreement prevents Plaintiffs from addressing any issues of public policy through legislative change or the stakeholders' process that has been agreed to as part of the formal remedy.

1. DEM agrees that it will promote public participation regarding on-going monitoring and site maintenance at the Springfield Street Schools Site ("Site") by taking the following actions and providing the following public notifications regarding ongoing activities at the Site:

A. DEM will establish and maintain an on-line public document repository relating to the investigation, remediation and monitoring of environmental conditions at the Site. At minimum, this repository shall contain copies of:

- i. All orders or written correspondence issued by DEM; and
- ii. All reports and written correspondence (re)submitted to DEM in an appropriate electronic format (e.g. .PDF).

In addition, DEM will investigate the feasibility of converting (scanning) some existing paper documents into electronic format over time. DEM's efforts at converting paper documents for on-line posting will focus on the more relevant existing documents and will not attempt to convert the entire site file. The Plaintiffs recognize that it will not always be feasible for DEM to convert large technical documents for web posting, and that such documents could be more readily made available for on-line posting if the entity that originally generated the document agrees to provide the Department with an electronic copy in a format susceptible to on-line publication. DEM reserves the right to properly and efficiently manage and organize its web space, including the right to remove dated information for off-line storage.

B. In the event that the City agrees to establish a document repository at one of the schools, or at some other alternative location, DEM will copy the repository with paper and electronic versions of all orders or written correspondence issued by DEM.

- C. DEM will provide written notice, in English and Spanish, of any public document repository that it creates to:
- i. The parties identified in "Appendix A," attached hereto (via U.S. mail);
  - ii. Abutting owners and tenants (via U.S. mail or hand-delivered flyers);
  - iii. Students, teachers and workers at the schools (via flyers distributed through the schools) (*this requirement shall be contingent on the City allowing DEM to distribute fliers through the schools*).
- D. DEM will provide thirty (30) days public notice (to the persons and in the form set forth in Paragraph C, above) prior to DEM's issuance of approvals on the following actions:
- i. Any request to modify the existing remedy pursuant to §10.04 of the Remediation Regulations;
  - ii. A closure report submitted pursuant to §11.09 of Remediation Regulations.

If requested, DEM shall convene a public meeting at one of the school buildings at the Site or at another public location within the vicinity of the Site to discuss the subject of the public notice.

2. DEM shall require any significant physical modification to the approved engineered cap, including but not limited to, the expansion or addition of buildings, parking lots or other structures or activities that will result in a significant disturbance of the cap, to be treated as a new remedial proposal pursuant to §7.09 of the Remediation Regulations.
3. DEM shall require the City to address the issues and observations identified in the RI Legal Services Letter to DEM and the Office of Attorney General dated December 23, 2003, as required under paragraph 6 of the First Amended Order of Approval dated February 9, 2004.
4. Within 120 days of this agreement DEM shall review the approved remedial action at the Site, and again, no less often than each five (5) years after the first review of the approved remedial action, to assure that human health and the environment are being protected by the remedial action being implemented. In addition, if upon such review it is the judgment of DEM that further action is appropriate at such site, DEM shall take or require the City to take such action. DEM will provide public notice about the findings of its review to the persons and in the form set forth in Paragraph 1(C), above. Absent evidence of persistent exceedences of action levels set forth in the remedial action work plan for the Site or other evidence of a significant persistent threat of exposure to hazardous substances, DEM may terminate these five-year reviews after a period of twenty (20) years (i.e., after completing four complete reviews including the review to occur within 120 of this agreement).

5. DEM will not unreasonably refuse a request by Plaintiffs to meet to discuss environmental conditions at the Site, to review compliance with this agreement, and any disputes or concerns that may arise under this agreement.

PLAINTIFFS:

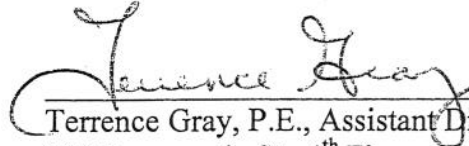
By their attorney,



Steven Fischbach, Esq. (#3259)  
R.I. Legal Services  
56 Pine Street, 4<sup>th</sup> Floor  
Providence, RI 02903  
Tel. 274-2652 x-164  
Fax 453-0310

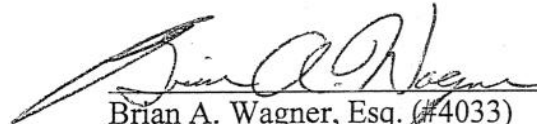
DEFENDANT:

RHODE ISLAND DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

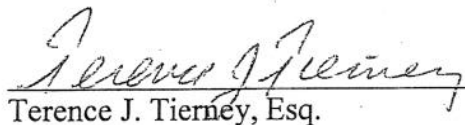


Terrence Gray, P.E., Assistant Director  
235 Promenade St., 4<sup>th</sup> Floor  
Providence, RI 02908  
Tel. 222-6677  
Fax. 222-6802

As approved by counsel:

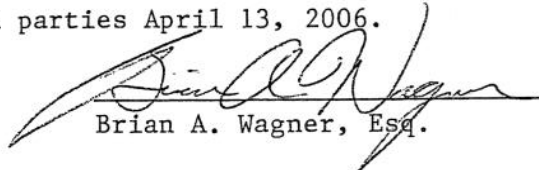


Brian A. Wagner, Esq. (#4033)  
DEM - Deputy Chief Legal Counsel  
235 Promenade St., 4<sup>th</sup> Floor  
Providence, RI 02908  
Tel. 222-6607  
Fax. 222-3378



Terence J. Tierney, Esq.  
Special Assistant Attorney General  
Department of the Attorney General  
150 South Main St.  
Providence, RI 02903  
Tel. 274-4400  
Fax 273-4270

Fully executed by all parties April 13, 2006.



Brian A. Wagner, Esq.

APPENDIX A

The following are to receive written notice per the terms of the attached Agreement for Resolution of Claims:

1. Plaintiffs  
Hartford Park Residents Association, Inc.  
335 Hartford Avenue, Apt. 308  
Providence, RI 02909
  
2. Plaintiffs' Counsel  
Steven Fischbach  
R.I. Legal Services  
56 Pine Street—4<sup>th</sup> Floor  
Providence, RI 02903
  
3. Parent Teacher Organizations of the various schools on the Site  
  
Parent-Teacher Organization  
Anthony Carnevale Elementary School  
50 Springfield Street  
Providence, RI 02909  
  
Parent-Teacher Organization  
Springfield Middle School  
152 Springfield Street  
Providence, RI 02909  
  
Parent-Teacher Organization  
Del Sesto High School  
152 Springfield Street  
Providence, RI 02909
  
4. Providence Teacher's Union  
Providence Teachers Union  
99 Corliss Street  
Providence, RI 02904
  
5. School Nurses  
  
School Nurse  
Anthony Carnevale Elementary School  
50 Springfield Street  
Providence, RI 02909

School Nurse  
Springfield Middle School  
152 Springfield Street  
Providence, RI 02909

School Nurse  
Del Sesto High School  
152 Springfield Street  
Providence, RI 02909

6. Olneyville Branch of Providence Public Library

Olneyville Branch  
Providence Public Library  
1 Olneyville Square  
Providence, RI 02909