

November 15, 2017

VIA EMAIL

Keith Nowell
Alameda County Health Care Services Agency
Department of Environmental Health
Keith.nowell@acgov.org

**Re: Former Red Hanger Kleeners, 6235-6239 College Avenue, Oakland, CA
Alameda County Dept. of Environmental Health (ACDEH) Case No. RO00002981**

Dear Mr. Nowell:

I was recently retained by Natalie and Manish Mehta, Trustees of the Mehta Family Trust, to represent the Trust's legal interests with respect to the ongoing environmental investigation associated with the above-captioned site. As ACDEH is aware, the Trust is the owner of the multi-family residential property located on the same block, at 309 63rd Street.

The Trustees also recently retained Steve Michelson of Applied Water Resources (copied on this email) as its environmental consultant with respect to the investigation. I understand that Mr. Michelson has initiated contact with your office, but no conference has yet occurred. While I am hopeful that you and Mr. Michelson will connect in the near future, I am writing to briefly outline, and request input on, the issues currently of concern to the Trustees.

Access to Trust Property for Investigation Activities

In an April 20, 2017 letter, ACDEH informed the Trustees that access to the Trust property would be needed to complete sampling for a supplemental remedial investigation (Supplemental RI). The Trustees understood the importance of the ongoing site characterization, including the Supplemental RI, and were (and remain) willing to cooperate in investigative efforts undertaken by the responsible party, Claremont College Venture, LLC (CCV) and its consultant, LRM Consulting, Inc. (LRM), pursuant to ACDEH oversight.

For this reason, the Trustees were surprised to read the following statement at page 5 of the September 2017 Supplemental Remedial Investigation Report prepared by LRM and submitted to ACDEH on behalf of CCV:

It should be noted that attempts were made as part of this investigation to access and sample soil vapor and groundwater at the 309 63rd Street property, but the owners requested an indemnity covering any future investigation and cleanup costs as a condition of access; this was unacceptable to the CCV.

This statement is simply not true, for two reasons.

First, neither CCV nor LRM (nor ACDEH) contacted the Trustees to request access to the Trust property for the Supplemental RI sampling and other fieldwork that was apparently conducted in July and August 2017. Had such contact occurred, the Trustees would have offered to allow LRM the relevant access, subject only to execution of an acceptable access agreement. Moreover, the Trustees have never indicated to CCV or LRM that access would only be allowed if CCV indemnified the Trust. Although such an indemnity is appropriate in this instance, where the Trust is not a responsible party and did not cause or contribute to the contamination at issue, the Trust has no interest in delaying investigative or remedial work. As such, negotiations with CCV concerning such an indemnity will be handled separately from, and will not impede, negotiations over an access agreement. To date, CCV has never provided the Trustees with a draft access agreement for review.

Second, LRM did sample a soil vapor monitoring well that appears to be located on Trust property—SG4-17—as part of the Supplemental RI work in August 2017, despite never requesting Trust permission to access that well (or even to install the well in the first place) or confirming via a survey that the well is not located on Trust property.

As such, please advise if access to the Trust property is needed to conduct work that should have occurred during the Supplemental RI effort. If so, we will work with CCV to ensure that the work may proceed as soon as feasible, following execution of an access agreement.

Vapor Intrusion Evaluation

In the April 20, 2017 letter, ACDEH noted that it would be “prudent that a vapor mitigation evaluation also be conducted” at the Trust property, “and if warranted implementation of mitigation measures.” Based on subsequent conversations with ACDEH, including on May 24 and September 28, the Trustees understood that ACDEH would require CCV to conduct and pay for this work, either as part of the Supplemental RI or pursuant to CCV’s other obligations as the responsible party. To date, CCV has not contacted the Trustees concerning this work, and the Trustees are not aware of any ACDEH directive to CCV requiring that the work be completed, either by a date certain or otherwise.

As such, please advise if ACDEH has directed or will direct CCV to conduct a vapor mitigation evaluation at the Trust property. If so, we will work with CCV to ensure that this work may proceed as soon as feasible, following execution of an access agreement.

Future Correspondence and Notifications

Finally, please copy me on all ACDEH correspondence to the Trustees, and also add me to ACDEH's list of persons receiving notice with respect to this site. My contact information is listed above.

Very truly yours,

DOWNEY BRAND LLP



Donald E. Sobelman

DES:cgw

cc: Dilan Roe, ACDEH (dilan.roe@acgov.org)
Steve Michelson, Applied Water Resources (smichelson@awrcorp.net)
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