

LAW OFFICES OF  
KARL R. MORTHOLE  
57 POST STREET  
SUITE 801

SAN FRANCISCO, CALIFORNIA 94104

702863  
RECEIVED

FEB 21 2008

ENVIRONMENTAL HEALTH SERVICES

TELEPHONE (415) 986-0227

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EMAIL

karl@mortholelaw.com

February 20, 2008

Sent by E-mail

Original by Regular Mail

Mr. Steven Plunkett  
Alameda County  
Environmental Health Services  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94502-6577

Re: Crow Canyon Cleaners, 7242 San Ramon Rd., Dublin, CA 94568

Dear Mr. Plunkett:

This responds on behalf of my clients, Bruce Burrows and Jim Roessler, to your letter dated February 6, 2008, on the subject of spills, leaks, investigations and Cleanup at the above site, but with address 7272 San Ramon Road, SLIC Case No. RO0002863. The letter was addressed to Mr. Burrows and a number of other parties. I am only responding directly on behalf of my clients, not any other parties. However, as you know, my clients themselves are responsible only insofar as they are in a contractual relationship with the current owner of the property, the Chiu Family Trust, Gabriel Chiu, Trustee. Your February 6 letter was also addressed to Mr. Chiu, as the current property owner (as you know, strictly speaking, it is the trust, not Mr. Chiu personally, that is the owner) along with the past and present operators of the dry cleaning business at the site: the Perrys; the Lees; and the Parks.

By way of background, I think it will be helpful to summarize the context of this case. For the last three years, since 2005 when this property was purchased by the Chiu Family Trust with my clients as the real estate brokers in the transaction, my clients have requested repeatedly that the past and present operators of the dry cleaning business step up and take over investigation and remediation at the site, since it is the dry cleaning operations that almost surely caused the contamination. As part of those requests, my clients have provided them with copies of all information as it was developed. At no point during the period from 2005 up to and including the present, have any of the operators shown any real willingness to step up. Finally, in the face of continued non-responsiveness, on October 19, 2007, my clients reluctantly had me file on their behalf a legal action against the operators in federal district court in San Francisco. The Perrys

Mr. Steven Plunkett

February 20, 2008

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and the Parks, in response, both answered, alleged affirmative defenses and pled counterclaims against my clients and cross-claims against each other and against the past and present owners of the property, alleging that my clients and the owners were, in fact, at fault. The Lees have not yet been located, though a search for them continues. The Perrys are represented by Mr. Thomas Downey and Mr. Erik Lim, of the Oakland law firm of Burnham Brown, and the Parks are represented by Mr. Jan Greben of Santa Barbara and Mr. Martin Deutsch of San Jose. The attorney for the Chiu Family Trust, Mr. Edward Polson, appeared for the first time in the case yesterday.

You asked for a response to your February 6 letter from all parties by today, February 20, 2008, notifying you of involvement and/or progress in obtaining a voluntary agreement with the California Department of Toxic Substances Control ("DTSC") to initiate a program of public participation, including the notification of parents with children attending the adjacent Montessori School.

After receiving a copy of your February 6 letter, on February 13 I forwarded a copy of it by e-mail to the Perrys' and Parks' attorneys and asked if a joint conference call could be arranged for February 14 or 15. In response, I was advised by them that they had already received copies. Mr. Greben advised he was conflicted on those days, and Mr. Downey advised they could be available on Friday, February 15. Concurrently, on Wednesday morning, February 13, 2008, I received an e-mail from Mr. Harold (Bud) Duke, of the DTSC Schools Program, with an attached draft agreement. I read it, acknowledged its receipt that afternoon by e-mail to Mr. Duke, and forwarded a copy by e-mail the next morning to the Perrys' and Parks' attorneys, again requesting days/times for Friday, Monday or Tuesday in case Mr. Deutsch might be available, in Mr. Greben's absence. On Friday, February 15, I was able to reach Mr. Downey by telephone, and we had a conversation for a few minutes, but no commitment was made. Communications continued, but no mutually convenient time for a conference call was identified, despite my offering of multiple days/times of availability. Instead, Mr. Downey and Mr. Greben both suggested that a request be made for an extension of some days to respond. I stated my belief that nothing would be served by delay, but expressed my willingness to keep my mind open.

Both Mr. Downey and Mr. Greben have expressed a willingness to talk though no time has worked so far. I still have hope that we can get together.

My clients remain committed to carrying forward with investigation and remediation at the site, and have instructed their consultant, ERM, to continue with these efforts. They will conduct this in compliance with all legal requirements for protection of public health and the environment and for cost-recovery, including but not limited to compliance with the National Contingency Plan, which, among other things, calls for public participation.

**LAW OFFICES OF KARL R. MORTHOLE**

Mr. Steven Plunkett  
February 20, 2008  
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My clients will continue their efforts to get cooperation from the truly responsible parties – which my clients believe are the past and present operators.

I will be in touch with you again in the coming days on this matter to report whether or not there has been any success.

Sincerely,

A handwritten signature in black ink that reads "Karl R. Morthole". The signature is written in a cursive, flowing style.

Karl R. Morthole

CC: (by e-mail only)  
Mr. Bruce Burrows  
Mr. James Roessler  
Thomas Downey, Esq.  
Derek Lim, Esq.  
Jan Greben, Esq.  
Martin Deutsch, Esq.  
Edward Polson, Esq.

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BURNHAM | BROWN

*a professional law corporation*

**THOMAS M. DOWNEY**  
tdowney@burnhambrown.com  
Direct Dial (510) 835-6708

February 20, 2008

**Via E-Mail**

Steven Plunkett  
County of Alameda  
Environmental Health Care Services  
1131 Harbor Bay Parkway  
Suite 250  
Alameda, CA 94502-6577

Re: Crow Canyon Dry Cleaners -7272 San Ramon Road, Dublin, CA

Dear Mr. Plunkett:

We represent Dwight Perry and Carl Perry with regard to the environmental investigation of the above referenced property and related civil proceedings. We write in response to your letter of February 6, 2008 to various parties regarding a proposed program of public participation and notification.

We received a copy of a proposed agreement between the Department of Toxic Substance Control (DTSC) and The Burrows Company regarding oversight costs related to "supplemental site investigation, risk assessment and public participation activities." We understand the subject letter and proposed plan were provided to the other parties, including the Burrows Company, the Gabriel H. Chui Trust, Nam Sun and Seung Hee Park, and the Lee Family.

Although efforts were made by several parties to coordinate a conference call to discuss participation in a voluntary agreement, several party representatives were unavailable. However, we did briefly discuss your requests and the format of the proposed agreement with Karl Morthole, counsel for The Burrows Company. While we remain optimistic that a voluntary agreement among all parties is achievable, it appears we will need additional time to address this issue with all other parties. We understand the Gabriel H. Chiu Trust only recently retained

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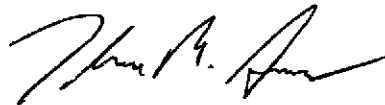
counsel for this matter and we not aware of their participation, if any, in the proposed agreement. Similarly, an investigation to locate representatives of the Lee Family is continuing.

Accordingly, we request an additional 10 days to provide a more detailed response to the issues referenced in your letter of February 6, 2008 and proposed agreement with DTSC.

Thank you for your consideration. Should you have any questions or comments, please do not hesitate to contact me at the telephone number referenced above.

Very truly yours,

BURNHAM BROWN



Thomas M. Downey

TMD:tld

cc: Karl Morthole (via E-mail)  
Jan Greben (via E-mail)

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Karl R. Morthole

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