

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION No. 2484CV03006 E

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

COMPLAINT

JDC DEMO & ABATEMENT LLC, JDC
DEMOLITION COMPANY, INC., JOHN
MORIARTY AND ASSOCIATES, INC., and
TRC COMPANIES, INC.

Defendant(s).

INTRODUCTION

1. During the partial demolition of the twenty-two story former Edward J. Sullivan Courthouse ("Sullivan Courthouse") in Cambridge, Massachusetts (the "Property") the Defendants, JDC Demo & Abatement LLC, JDC Demolition Company, Inc., John Moriarty and Associates, Inc., and TRC Companies, Inc., caused, suffered, allowed, or permitted the removal and handling of asbestos-contaminated demolition debris, including fireproofing material and insulation, without using proper handling practices and without properly securing the contaminated demolition debris for safe storage, transport, and disposal. This illegal work caused a condition of air pollution and repeatedly risked harm to the Defendants' employees and contractors, as well as the public and the environment in the dense residential and commercial neighborhood surrounding the Sullivan Courthouse. As a result of Defendants' improper asbestos abatement activities, the Commonwealth of Massachusetts (the "Commonwealth")

seeks civil penalties for violations of G.L. c. 111, §§ 142A-O, the Massachusetts Clean Air Act ("CAA"), and its asbestos regulations, 310 C.M.R. § 7.15 (the "Asbestos Regulations").

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action and the authority to order the requested relief pursuant to G.L. c. 111, § 142A and G.L. c. 12, § 11D.

3. Venue lies in Suffolk Superior Court pursuant to G. L. c. 223, § 5.

PARTIES

4. The Plaintiff is the Commonwealth of Massachusetts appearing by and through the Attorney General and the Department.

5. The Attorney General is the chief law officer of the Commonwealth, with offices at One Ashburton Place, Boston, Massachusetts. She is authorized to bring this action and to seek the relief requested herein pursuant to G.L. c. 12, §§ 3 and 11D and G.L. c. 111, § 142A.

6. The Department of Environmental Protection ("Department") is an agency of the Commonwealth charged with administering and enforcing the environmental laws of the Commonwealth including the CAA and the Asbestos Regulations. The Department maintains its principal office at 100 Cambridge Street, 9th Floor, Boston, Massachusetts, and has a regional office at 150 Presidential Way, 3rd Floor, Woburn, Massachusetts.

7. JDC Demo & Abatement LLC ("NewRoads") is a Massachusetts limited liability company which was organized under the laws of the Commonwealth on September 27, 2012, and has a principal place of business at 338 Howard Street, Brockton, Massachusetts 02302. At all times relevant to this matter, the company

operated under the name NewRoads Environmental Services, LLC. NewRoads is the asbestos abatement subcontractor for the abatement project at the Property.

8. JDC Demolition Company, Inc. ("JDC"), is a Massachusetts for-profit company which was organized under the laws of the Commonwealth on October 24, 2012, and has a principal place of at 338 Howard Street, Brockton, Massachusetts 02302. JDC is the demolition subcontractor for the abatement project at the Property.

9. John Moriarty and Associates, Inc. ("Moriarty"), is a Massachusetts for-profit company, which was organized under the laws of the Commonwealth on January 11, 1985, and has a principal place of business at 3 Church Street, Winchester, Massachusetts 01890. Moriarty is the general contractor for the abatement project at the Property.

10. TRC Companies, Inc. ("TRC"), is a foreign corporation, which was organized under the laws of Delaware on February 20, 1969, and registered in the Commonwealth on December 14, 2015, and has a principal place of business at 21 Griffin Road North, Windsor, Connecticut 06095. TRC is the asbestos consultant for the abatement project at the Property.

REGULATORY BACKGROUND

The Massachusetts Clean Air Act, G.L. c. 111, §§ 142A-O

11. The CAA, initially enacted in 1954, gives the Department broad authority to "adopt regulations . . . to prevent pollution or contamination of the atmosphere." G.L. c. 111, § 142A. Pursuant to this authority the Department issued the Asbestos Regulations.

12. The Asbestos Regulations establish a comprehensive scheme for the regulation of work involving asbestos, requiring notification of the Department prior to certain work and setting specific work practice requirements for the removal, handling, storage, and disposal of

suspect asbestos-containing material ("SACM"), asbestos-containing material ("ACM") and asbestos-containing waste material ("ACWM.")

13. Asbestos is a hazardous material and known human carcinogen regulated by the Department. There are multiple kinds of asbestos, including chrysotile asbestos, the most prevalent form. Because of the serious health risks associated with exposure to asbestos, there is no safe exposure level. There is a high likelihood that asbestos fibers will be released into the air when asbestos material is broken or disturbed – for example, during demolition or renovation work.

14. Under the Asbestos Regulations, SACM means "products that have a reasonable likelihood of containing asbestos based upon their appearance, composition and use...." SACM "includes, but is not limited to, non-fiberglass insulation (e.g. pipe, boiler, duct work, etc.), cement/transite pipes, cement sheets (corrugated and decorative), ceiling tiles, cloth vibration dampers or ductwork, spray-on fire proofing, mastic (flooring or cove base adhesive or damp proofing), and asphalt roofing or siding materials (shingles, roofing felts, tars, etc.)."

15. Under the Asbestos Regulations, ACM is "any material containing 1% or more asbestos" ACM "includes, but is not limited to, sprayed-on and troweled-on materials applied to ceilings, walls and other surfaces; insulation on pipes, boilers, tanks, ducts, and other equipment, structural and non-structural members; tiles; asphalt roofing or siding materials; or asbestos-containing paper." 310 C.M.R. § 7.15(1).

16. ACM is most dangerous to health when it is "friable." Friable ACM is "any ACM, that, when dry, can be crumbled, shattered, pulverized or reduced to powder by hand pressure or any non-friable ACM that has been subjected to sanding, grinding,

cutting, or abrading or has been crumbled, shattered, or pulverized by mechanical means such as, but not limited to, the use of excavators, bulldozers, heavy equipment, or power and/or hand tools.” 310 C.M.R. § 7.15(1).

17. ACWM is “any ACM removed during a demolition or renovation project and anything contaminated with asbestos in the course of a demolition or renovation project including, but not limited to, asbestos waste from control devices, bags or containers that previously contained asbestos, contaminated clothing, materials used to enclose the work area during the demolition or renovation operation, and demolition or renovation debris.” 310 C.M.R. § 7.15(1). ACWM also includes “ACM on and/or in facility components that are inoperable or have been taken out of service and any ACM that is damaged or deteriorated to the point where it is no longer attached as originally applied or is no longer serving the intended purpose for which it was originally installed.

18. The Asbestos Regulations include a program for regulating the handling of asbestos, requiring notification to the Department before commencement of certain work and imposing detailed requirements for handling, storage, and disposal of ACM and ACWM. See 310 C.M.R. § 7.15.

19. More specifically, the regulations at 310 C.M.R. § 7.15(3)(a)2. and 3. prohibit the performance of any asbestos abatement activity in a manner that causes or contributes to a condition of air pollution or poses an actual threat to human health, safety, and welfare or to the environment, and the provisions of 310 C.M.R. § 7.15(5), (7), (8), and (15) set forth detailed procedures for the removal and abatement of ACM and ACWM to prevent visible or particulate emissions of asbestos to the ambient air. Those regulations include, among other things, the requirement that any ACM must be removed and properly disposed of prior to any demolition or

renovation activity, 310 C.M.R. § 7.15(5), standards for containment and air filtration, 310 C.M.R. § 7.15(7), requirements for the handling and packaging of ACM and ACWM, *id.*

20. A person engaging in asbestos abatement activity may only deviate from the requirements of 310 C.M.R. § 7.15 in limited circumstances, such as specified emergency situations, by applying for and complying instead with a non-traditional work plan ("NTWP") approved by the Department. See 310 C.M.R. § 7.15(14).

FACTS

Description of the Property

21. The Sullivan Courthouse, located at 40 Thorndike Street, Cambridge, is the location of the former Edward J. Sullivan Courthouse, a 500,000 square foot, twenty-two story building sitting on a 59,788 square foot plot of land. The Sullivan Courthouse contains an approximately 20,000 square foot roof ("podium roof") that wraps around and extends out from the central tower on the 5th floor and a central elevator shaft running down the central tower ("central shaft").

22. The Property is bounded in all directions by mixed use residential and commercial buildings, including Centanni Park and the Cambridge Multicultural Arts center to the North, and the Cambridge Juvenile Court to the West.

23. The Property is located in a community that tends to be disproportionately impacted by and vulnerable to environmental harms and risks and excluded from environmental decision making.

The Asbestos Abatement Project at the Sullivan Courthouse

24. In December 2019, LMP retained TRC as its environmental consultant for the demolition and reconstruction work on the Sullivan Courthouse.

25. TRC's role included, but was not limited to: performing services necessary to properly document hazardous building materials and to oversee and monitor the proper and lawful abatement of hazardous building materials; preparing all environmental filings to relevant governmental agencies; ensuring the proper documentation of abatement practices and procedures; participating in interviews with prospective abatement contractors' participating in planning sessions with LMP and the general contractor to assist in abatement planning, scheduling, enabling, personnel training, and conversations with governmental authorities and other project stakeholders; conducting testing and sampling activities and conducting post-abatement clearance inspections.

26. On February 27, 2020, LMP GP Holdings LLC ("LMP") purchased the Property from the Commonwealth.

27. By early 2020, LMP retained Moriarty as the general contractor for the demolition and reconstruction work on the Sullivan Courthouse.

28. By early 2020, Moriarty retained JDC as the demolition subcontractor for the demolition and reconstruction work on the Sullivan Courthouse.

29. By early 2020, JDC retained NewRoads as the asbestos abatement subcontractor for the demolition and reconstruction work on the Sullivan Courthouse.

30. On July 7, 2020, LMP, through TRC, submitted a NTWP to the Department.

31. LMP and TRC submitted the NTWP in order to receive authorization to use alternative asbestos abatement work practices at the Sullivan Courthouse, due to the poor

condition of the interior of the Sullivan Courthouse, the large amounts of friable ACM present, and the fact that the basement was flooded.

32. One part of the NTWP requested authorization to remove the elevator from the central shaft and to use the empty shaft, which was partially contained with a dust suppression system, as a chute to transfer non-friable ACWM debris down into a contained area in the lower level first floor ("LL1 Waste Loadout area"), where the debris would be collected and packaged for disposal.

33. On November 4, 2020, the Department approved the NTWP.

Defendants' Initial Violations of the CAA

34. On or before December 2, 2020, Defendants began their demolition and redevelopment activities at the Property.

35. At all relevant times throughout the demolition and redevelopment activities, a TRC monitor was on site and was tasked with, in part, ensuring the abatement practices and procedures were properly followed and documented.

36. On or before December 23, 2020, Defendants caused or allowed dry storage of ACWM ceiling tile debris in several open bags and failed to keep the ACWM ceiling tile debris wet until and after it was properly containerized in their work area on the 3rd floor.

37. On or about March 5, 2021, Defendants failed to ensure that the dust suppression system in the empty shaft and high efficiency particulate air ("HEPA") filtered work area ventilation system ("HEPA filter system") were functioning properly in the LL1 Waste Loadout Area. In addition, Defendants failed to ensure that the HEPA filter systems were properly functioning in the 2nd floor containment area.

38. On or about March 22, 2021, Defendants failed to ensure HEPA filter systems in asbestos abatement work areas remained clean and free of dust on the 1st floor. In addition, Defendants caused or allowed ACM spray-on fireproofing insulation to remain scattered on a pipe, the floor, and under a scaffolding platform on the 1st floor.

39. On or about July 8, 2021, Defendants failed to ensure asbestos workers in the abatement work area on the 18th floor wore required personal protective equipment and employed a properly operating HEPA filter system.

Defendants' August 27, 2021 Violations

40. On or about August 27, 2021, Defendants' asbestos abatement activity at the Sullivan Courthouse resulted in releases of asbestos to the ambient air and risked the exposure of workers and other people at and around the Property and caused or contributed to a condition of air pollution.

41. During this work, Defendants caused or allowed dry, uncontained ACM spray-on fireproofing insulation debris ("ACM Fireproofing Insulation") to remain scattered across the open, uncontained 5th floor podium roof on the exterior of the Thorndike Street and Spring Street sides of the Property after completing their abatement work.

42. The ACM Fireproofing Insulation on the 5th floor contained up to 30% chrysotile asbestos.

43. Defendants also caused or allowed a breach in the containment on the 9th floor ledge and floor deck on the Spring Street side of the Sullivan Courthouse, resulting in the exposure of dry, uncontained ACM Fireproofing Insulation debris from their abatement work to the ambient air.

44. The ACM Fireproofing Insulation on the 9th floor contained up to 30% chrysotile asbestos.

45. Defendants caused or allowed dry, uncontained ACM Fireproofing Insulation debris to remain scattered on the 9th floor's courtroom floor, both inside and outside of the Defendants' compromised containment area.

46. At some point prior to August 27, 2021, as part of their abatement work, Defendants installed Celotex insulation board throughout the exterior of the Sullivan Courthouse, to cover and contain the ACM Fireproofing Insulation on steel beams that would have otherwise been exposed to the ambient air.

47. During their work on or about August 27, 2021, Defendants caused or allowed the ACM Fireproofing Insulation contained by Celotex insulation boards on the 12th floor to become exposed to the ambient air, such that in some cases the Celotex boards were flapping in the wind as it blew across asbestos-contaminated surfaces.

48. During their work on or about August 27, 2021, Defendants failed, or caused, suffered, or allowed the failure to adequately wet, containerize and seal, and properly label the ACM Fireproofing Insulation debris from the 5th Floor and 9th Floor in leak-tight containers.

Defendants' August 31, 2021, Violations

49. On or about August 31, 2021, Defendants caused or allowed asbestos abatement activity on the 2nd to 9th floors, including the 5th floor podium roof, the central shaft, and the exterior of the Sullivan Courthouse on the Spring Street side, that

risked the exposure of workers and other people at and around the Property to asbestos, and consequently caused or contributed to a condition of air pollution.

50. As of August 31, 2021, Defendants continued to cause or allow the dry, uncontained ACM Fireproofing Insulation debris that was present on August 27, 2021, to remain scattered on the 5th floor podium roof and on swing stage scaffolding on the 5th floor podium roof on the exterior of the building.

51. Defendants continued to fail, or cause or allow the failure, to adequately wet, containerize, seal, and properly label all the ACM Fireproofing Insulation debris from the 5th floor podium roof and swing stage scaffolding in leak-tight containers.

52. During the August 31, 2021, abatement work, Defendants caused or allowed the use of three HEPA filter systems in the 7th floor work area, one HEPA filter system in the 8th floor work area, and one HEPA filter system in the 9th floor work area without properly operating alarm systems.

53. As of August 31, 2021, Defendants continued to cause or allow dry, uncontained ACM Fireproofing Insulation debris to remain scattered in the 9th floor courtroom and along the Spring Street facing floor deck adjacent to the central shaft, both inside and outside of the Defendants' containment area.

54. As of August 31, 2021, Defendants continued to fail, or cause or allow the failure to, adequately wet, containerize and seal, and properly label the ACM Fireproofing Insulation debris from the 9th floor courtroom and Spring Street facing floor deck work areas in leak-tight containers.

55. During the August 31, 2021, abatement work, Defendants failed, or caused or allowed the failure, to employ HEPA filters during the abatement activities in the 9th floor work areas.

56. Defendants failed, or caused or allowed the failure, to ensure that a HEPA filter system remained in operation at all times until visual inspection requirements were met for the 9th floor work area.

57. Defendants failed, or caused or allowed the failure, to ensure that all exhaust air from the abatement activities in the 9th floor work area was HEPA-filtered before being discharged outside of the 9th floor work area.

58. Defendants caused or allowed Celotex insulation to detach from the Sullivan Courthouse in several areas on the Spring Street side of the building exposing ACM Fireproofing Insulation on metal beams to be exposed to the ambient air.

Defendants' May 5, 2022, Violations

59. On or about May 5, 2022, Defendants conducted asbestos abatement activities on the LL1 through 4th floors and the west exterior of the Sullivan Courthouse that risked the exposure of workers and other people at and around the Property to asbestos, and consequently caused or contributed to a condition of air pollution.

60. During the May 5, 2022, abatement work, in order to contain the abatement work from the ambient air, Defendants created a containment area, approximately 100 feet long and 60 feet high, on the south side of the Sullivan Courthouse encompassing the LL1 through 4th floors (the "LL1 to 4th Floor Containment Area").

61. The ACM Fireproofing Insulation used in the LL1 to 4th Floor Containment Area contained 20% chrysotile asbestos.

62. Defendants failed, or caused or allowed the failure to use a clean filter for the HEPA filter systems throughout the LL1 to 4th Floor Containment Area.

63. Defendants failed, or caused or allowed the failure to remove from the LL1 to 4th Floor Containment Area, the ACM Fireproofing Insulation debris they had containerized and stored there at least once per shift.

64. Defendants caused or allowed the co-mingling of the ACM Fireproofing Insulation debris with concrete and brick debris, contaminating the concrete and brick debris with asbestos and consequently increasing the amount of ACWM at the Property. Defendants also caused or allowed the piling of this co-mingled debris on the floor of the LL1 to 4th Floor Containment Area.

65. Defendants failed, or caused or allowed the failure, to ensure HEPA filter systems remained in continuous operation at all times until inspection requirements were met for the LL1 to 4th Floor Containment Area.

66. Defendants caused or allowed the use of dry and heavily clogged filters in the HEPA filter systems employed in the LL1 to 4th Floor Containment Area.

67. Defendants caused or allowed the accumulation of dry and uncontained ACWM in the air cleaning equipment used in removal operations in LL1 to 4th Floor Containment Area, and failed, while it was wet, to place the ACWM into leak-tight and properly labeled containers.

68. Defendants caused or allowed dry removal of the ACM Fireproofing Insulation from the LL1 to 4th Floor Containment Area.

69. Defendants caused or allowed dry, uncontained ACM Fireproofing Insulation debris to remain scattered on or covering the floor of the LL1 to 4th Floor Containment Area, as well as the safety netting, railings, and floor on the 1st floor, and metal columns on the 3rd floor.

70. Defendants caused or allowed visible emissions during the asbestos abatement work in the LL1 to 4th Floor Containment Area.

71. Defendants caused or allowed Celotex insulation to detach from the Sullivan Courthouse in several areas on the west side of the building, exposing ACM spray-on fireproofing insulation on metal beams to the ambient air.

CAUSES OF ACTION

COUNT I: UNLAWFUL HANDLING AND REMOVAL OF ASBESTOS AT THE PROPERTY IN VIOLATION OF THE CAA AND ASBESTOS REGULATIONS

72. The Commonwealth realleges and incorporates by reference the averments of Paragraphs 1- 71.

73. The Asbestos Regulations as set forth in 310 C.M.R. § 7.15 apply to any person(s) engaged in asbestos abatement activities or actions set forth in 310 C.M.R. § 7.15(3), and to activities associated with such asbestos abatement activities.

74. Section 7.15(3)(a)1. of 310 C.M.R. provides that no person shall violate or cause, suffer, or allow a person to violate any requirement set forth in 310 C.M.R. § 7.15.

75. Section 7.15(4)(c) of 310 C.M.R. requires that any SACM that is not sampled and tested for the presence of asbestos must be handled and disposed of as if it were ACM.

76. Section 7.15(7)(c)4. of 310 C.M.R. requires that each owner or operator of a facility or facility component ensure that any asbestos abatement area is isolated and

contained before initiating abatement work to prevent emissions to the ambient air by, among other things, sealing large openings like doorways with solid construction materials and caulked seams.

77. Section 7.15(7)(e)2. of 310 C.M.R. requires that each owner or operator of a facility or facility component ensure that HEPA filters remain in operation at all times until the requirements of a visual inspection pursuant to 310 C.M.R. § 7.15(8) have been met.

78. Section 7.15(7)(e)3. of 310 C.M.R. requires that each owner or operator of a facility or facility component ensure that the ventilation equipment utilized shall be of sufficient capacity to provide a minimum of four air changes per hour and shall be equipped with an operating alarm system capable of indicating when the unit is not working properly, and utilizing a clean filter for that unit.

79. Section 7.15(7)(e)6. of 310 C.M.R. provides that each owner or operator of a facility or facility component shall ensure that all exhaust air is HEPA-filtered before being discharged outside of the work area.

80. Section 7.15(7)(f)1. of 310 C.M.R. requires that each owner or operator of a facility or facility component ensure that all ACM is adequately wet and kept adequately wet until after it is containerized pursuant to 310 C.M.R. § 7.15(15).

81. Section 7.15(15)(a)-(b) of 310 C.M.R. requires that each owner or operator of a facility or facility component adequately wet ACWM obtained from air cleaning equipment or from removal operations and, while it is wet, place the ACWM into leak-tight containers.

82. Section 7.15(7)(f)3. of 310 C.M.R. requires that each owner or operator of a facility component promptly clean up and place into leak-tight containers all ACWM, and containerized ACWM shall be removed from the work area at least once per shift and stored in

secured, totally enclosed vehicles or containers that are designed, constructed, and operated to prevent spills, leaks, or emissions.

83. Section 7.15(15)(c)-(d) of 310 C.M.R. requires that each owner or operator of a facility or facility component label each container or package of ACWM with a hazard label indicating its hazardous asbestos content and with a generator label identifying the name of the waste generator, the location at which the waste was generated, and the date of generation.

84. Section 7.15(7)(f)4. of 310 C.M.R. requires that each owner or operator of a facility or facility component decontaminate all contaminated surfaces within an asbestos abatement area using HEPA vacuuming or wet cleaning techniques, so that no debris is visible.

85. Section 7.15(8)(a)-(b) of 310 C.M.R. requires, with an exception not relevant here, that each owner or operator of a facility or facility component ensure that an asbestos project monitor conducts a visual inspection of all surfaces within the work area for visible debris and ensure that an asbestos contractor repeatedly cleans the work area until it is free of any visible debris.

86. Under 310 C.M.R. §§ 7.00, an "owner/operator" is "any person who has legal title, alone or with others, of a facility or dumping ground; has the care, charge, or control of a facility or dumping ground, or has control of an asbestos abatement activity, including but not limited to contractors and subcontractors."

87. Under 310 C.M.R. § 7.00, a "person" includes "any individual, public or private partnership, association, firm, ... , company, ... , corporation, ... , or any other entity recognized by law as the subject of rights and duties."

88. Under 310 C.M.R. § 7.15(1), a "facility" is "any dumping ground, or any installation, structure, building establishment or ship, and associated equipment."

89. Under 310 C.M.R. § 7.00, a "facility component" is "any part of a facility including, but not limited to, any equipment, pipe, duct, boiler, tank, turbine, furnace, building material, insulation, load supporting and nonload supporting structural member or non-structural member at the facility."

90. For the purposes of 310 C.M.R. § 7.15(1), "demolition" is any operation which involves "the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility."

91. Under 310 C.M.R. § 7.15(1), "renovation" means "altering a facility or one or more facility components in any way, including the stripping or removal of ACM from a facility component."

92. Under 310 C.M.R. § 7.15(1), "asbestos abatement activity" is "the removal, encapsulation, demolition, renovation, enclosure, repair, disturbance, handling, transportation, storage, or disposal of [ACM] or [ACWM] or any other activity involving [ACM] or [ACWM] that has the potential to result in a condition of air pollution."

93. Under 310 C.M.R. § 7.15(1), "containerize" means "to place into sealed containers which will prevent leakage of solids, including dust, and liquids."

94. Under 310 C.M.R. § 7.15(1), "work area" means "the area or location where any asbestos abatement activity or incidental maintenance work is being performed, including but not limited to: areas used for accessing the location where asbestos abatement, asbestos-associated project work or incidental work is being performed; areas used for the storage of equipment or removed materials related to asbestos abatement activity; and other areas of a facility or location

in which the Department determines that such asbestos abatement activity has been or may be an actual or potential cause of a condition of air pollution.”

95. The Defendants are “persons” within the meaning of 310 C.M.R. § 7.00..

96. Defendants were each a person in control of an asbestos abatement activity at the Property.

97. The Defendants are each an “owner/operator” of the Property within the meaning of 310 C.M.R. §§ 7.00.

98. At all relevant times, the Property was a “facility” within the meaning of 310 C.M.R. § 7.15(1).

99. The ACM Fireproofing Insulation and metal beams constitute “facility components” within the meaning of 310 C.M.R. § 7.00.

100. The ACM Fireproofing Insulation used throughout the Sullivan Courthouse contained up to 30% asbestos and is therefore both ACM and ACWM within the meaning of 310 C.M.R. § 7.15(1).

101. The redevelopment operations undertaken at the Property at the direction of the Defendants was “renovation” and/or “demolition” work within the meaning of 310 C.M.R. § 7.15(1).

102. By causing, suffering, allowing, or permitting the “removal, . . . demolition, renovation, . . . disturbance, handling, transportation, storage, or disposal of [ACM] or [ACWM]” at the Sullivan Courthouse, the Defendants engaged in “asbestos-abatement activity” within the meaning of 310 C.M.R. § 7.15(1).

103. By causing, suffering, allowing, or permitting asbestos abatement activity in a manner that caused or contributed to a condition of air pollution and posed an actual

or potential threat to human health, safety, and welfare or to the environment, the Defendants violated G.L. c. 111, § 142A, and 310 C.M.R. § 7.15(3)(a)1.-3.

104. By failing to isolate and seal the work areas where they performed asbestos abatement work, or by causing, suffering, or allowing such failures, the Defendants violated G.L. c. 111, § 142A, and 310 C.M.R. §§ 7.15(3)(a)1. and (7)(c)4.

105. By failing to wet ACM and ACWM and by failing to keep the ACM and ACWM wet until and after placing it into leak-tight containers, or by causing, suffering, or allowing such failures, the Defendants violated G.L. c. 111, § 142A, and 310 C.M.R. §§ 7.15(3)(a)1., (7)(f)1., and (15)(a) and (b).

106. By failing to containerize and seal ACM and ACWM, including the ACM Fireproofing Insulation, or by causing, suffering, or allowing such failure, the Defendants violated G.L. c. 111, § 142A, and 310 C.M.R. § 7.15(3)(a)1., (7)(f)3., and (15)(b).

107. By failing to label ACM and ACWM, including the ACM Fireproofing Insulation debris with hazard and generator labels, or by causing, suffering, or allowing such failure, the Defendants violated G.L. c. 111, § 142A, and 310 C.M.R. §§ 7.15(3)(a)1. and (15)(c)-(d).

108. By failing to clean their work areas until no debris was visible after completing abatement activity, or by causing, suffering, or allowing such failure, the Defendants violated G.L. c. 111, § 142A, and 310 C.M.R. §§ 7.15(3)(a)1., (7)(f)4., and (8)(a)-(b).

109. By failing to ensure that HEPA filter systems during abatement activities had properly operating alarm systems, the Defendants violated G.L. c. 111, § 142A, and 310 C.M.R. §§ 7.15(3)(a)1. and (7)(e)3.

110. By failing to ensure that a HEPA filter system was in operation at all times from the commencement asbestos abatement activities until the visual inspection requirements of 310

C.M.R. 7.15(8) were met, the Defendants violated G.L. c. 111, § 142A, and 310 C.M.R. §§ 7.15(3)(a)1. and (7)(e)2.

111. By failing to ensure that all exhaust air from their work areas were HEPA filtered before being discharged outside of the work area, the Defendants violated G.L. c. 111, § 142A, and 310 C.M.R. §§ 7.15(3)(a)1. and (7)(e)6.

112. By failing to ensure that clean filters were used in the HEPA filter systems in the Defendants' work areas, the Defendants violated G.L. c. 111, § 142A, and 310 C.M.R. §§ 7.15(3)(a)1. and (7)(e)3.

113. By failing to ensure that all the ACM Fireproofing Insulation within the LL1 to 4th Floor Containment Area, was promptly cleaned up and placed into leak-tight containers and removed from the LL1 to 4th Floor Containment Area at least once per shift, the Defendants violated G.L. c. 111, § 142A, and 310 C.M.R. §§ 7.15(3)(a)1. and (7)(f)3.

114. Under G.L. c. 111, § 142A, this Court is authorized to impose a penalty of \$25,000 per day per violation and to enjoin further violations of the CAA and the Asbestos Regulations.

REQUEST FOR RELIEF

WHEREFORE, the Commonwealth respectfully requests that this Court:

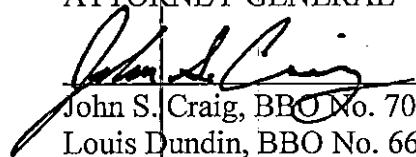
- A. **ORDER** the Defendants to pay to the Commonwealth a civil penalty of \$25,000 for each day of each violation of the CAA or the Asbestos Regulations;
- B. **ISSUE** a permanent injunction requiring the Defendants to comply with the CAA and the Asbestos Regulations; and
- C. **GRANT** such other relief as the Court deems appropriate and just.

Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS

By its attorney,

ANDREA JOY CAMPBELL
ATTORNEY GENERAL



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