



COMMONWEALTH OF MASSACHUSETTS
**Board of Registration
of
Hazardous Waste Site Cleanup Professionals**

100 CAMBRIDGE STREET, 9th Floor
BOSTON, MA 02114

PHONE: (617) 556-1091 EMAIL: lsp.board@mass.gov

PROFESSIONAL CONDUCT COMMITTEE

Minutes of Meeting on February 13, 2024

Approved on: March 12, 2024

Prepared by: Jared J. Muggeo

Meeting Location: Online via ZOOM

List of Documents Used at the Meeting:

1. Agenda
2. Draft Professional Conduct Minutes from January 6, 2024.
3. Active Case List

1. Call to Order: Kirk Franklin called the meeting to order at 12:22 p.m.

Board members present via ZOOM: David Austin, Gail Batchelder, Gregg McBride, Patrick Herron, James Smith, Craig Ellis, Paul McKinlay. Board members absent: Kathleen Campbell. Staff members present via ZOOM: Terry Wood, Matthew Lyne, Notoshia Dix and Jared Muggeo. Staff member present via ZOOM: Chris Borges.

Also present via ZOOM: Kent Walker-LSP Applicant, Charles Young-LSP and LSPA President, Diane Baxter of MassDEP and LSP, Lori McCarthy-LSP, Crista Trapp-LSPA Clerk & Director, Wendy Rundle-LSPA Executive Director, Kristi Lefebvre-LSPA Communications Manager, and Michelle Zelch-LSPA Program & Events Manager.

2. Announcements: There were no announcements.

3. Review of Draft Minutes - January 9, 2024

The draft meeting minutes from January 9, 2024 were unanimously approved without changes by roll call vote.

4. Old Business

A. Status of Complaint Review Teams (CRTs)

The active case list was reviewed, and the status of the active cases was discussed.

B. Complaint 21C-01

The screening team members reported that they need additional time to complete review of the complaint and anticipate having a recommendation for the Committee at the March meeting.

C. Complaint 22C-01

The screening team members stated they had completed review of the complaint and response and then presented the basis for their recommendation that the Committee dismiss the complaint.

Allegation number one in the complaint pertained to redevelopment of the site before the extent of contamination was properly defined, delineated, and controlled. The screening team noted that the MCP allows for redevelopment of a contaminated property prior to the delineation of a release.

The second allegation cited a failure to properly test indoor air quality prior to approval of the full occupancy and use of the redeveloped buildings. The screening team noted that previous indoor air testing had been conducted when the buildings were vacant, and that the RAM plan filed by the LSP proposed installation of a vapor mitigation system and indoor air testing prior to occupancy. The LSP was only made aware of the occupancy of the building after a news article was published, and the LSP then contacted the client to recommend urgent testing.

The third allegation was in regard to a failure to install a sub-slab depressurization system to prevent ongoing TCE vapor intrusion into the occupied buildings. The screening team indicated that a passive indoor air mitigation system was installed that met DEP regulatory requirements.

Allegations number four, five and six concerned a failure to design, install and operate a groundwater collection and treatment system to address TCE contamination; a failure to install a groundwater and preferred contaminant pathway barrier system to prevent TCE-contaminated groundwater spread; and a failure to address the leakage of TCE-contaminated groundwater into the city stormwater drainage system. The screening team agreed that a groundwater collection treatment system (or barrier system) was not required by the MCP at the Phase I stage of the MCP process. Additionally, an investigation was conducted to assess the groundwater infiltration into the city's stormwater drainage system that was documented in MCP reports. Allegation number seven alleged an improper employment arrangement involving a conflict of interest since the LSP was employed and paid by the tenant company which rents the property from the city but submitted MCP reports that implied the LSP was working for the city. The screening team stated that documents indicated that the city was aware that the tenant had hired the LSP's firm and both parties seemed to have common goals.

Allegation number eight regarded a failure to properly identify the LSP's client during the public involvement plan (PIP) process. The screening team stated that, in reviewing the PIP plan and recorded PIP hearing, they did not find evidence that the LSP provided any misleading statements.

Allegation number nine referred to the LSP responding to DEP's Notice of Noncompliance (NON). The screening team noted that it is typical for LSPs to respond to their client's NONs. Allegation number ten involved continuing to act as LSP-of-Record after the city council passed a resolution barring the LSP from performing additional work on the site. The screening team did not think that the city council resolution barred the LSP from performing LSP services at the site.

After the screening team concluded its presentation, the Committee unanimously voted by roll call to dismiss Complaint 22C-01 in its entirety.

D. Complaint 23C-01

Last month, the Committee asked Mr. Lyne to contact the complainant and obtain an update on the status of the site LSP's work. The complainant stated in the complaint that the LSP had signed a contract, received payment, and then hadn't shown up to do work for a period of about a year. Mr. Lyne reported that he was unable to speak with the complainant, but the complainant's wife indicated that the LSP did sampling work last fall and a report is pending, and that DEP is providing guidance. The complainant would like to put the case on hold until the LSP submits the final report to DEP.

The Committee then moved to table the discussion to revisit within six months by unanimous roll call vote.

5. **New Business** - No new business.

6. **Future Meeting** – March 12, 2024- (Hybrid; in person at 100 Cambridge Street, Boston and remote via ZOOM)

7. **Adjournment:** The meeting was adjourned at 12:45 p.m.