

*submitted by
Joseph Bennett
2c
9-20-05*

**COMMENTS AT CITY COUNCIL MEETING
SEPTEMBER 20, 2005**

Good afternoon Mayor and City Council. Welcome back from a much deserved vacation.

My name is Joe Bennett. I am President of the Cameron Station Civic Association.

At the last public hearing meeting in June, we called to your attention the blatant and continuous SUP violations by the Virginia Paving Company plant behind Tucker School, Boothe Park and our neighborhood of Cameron Station. We asked that you do something to combat the violations and enforce the SUP. You asked City Staff to prepare a Staff Memorandum for your next meeting addressing the concerns raised and recommending courses of action.

At your meeting on June 28, you decided to order enforcement of the SUP, but allowed night work on City and Wilson Bridge projects and "emergency repairs". Over the summer, through our own probing efforts, we found several documents which should have been called to your attention and to the community's. They would have been germane to rational decision makers as you were deciding what action to take.

In June, why weren't you and the community made aware of an October 26,2004 letter from the City Attorney's office threatening to take legal action

against Virginia Paving, including revocation of their Special Use Permit, for 22 violations of State and City Codes including numerous violations of the fire code, especially as related to storage and use of hazardous materials, illegal dumping of wastes into state streams, possible encroachment on City land, damage to City property, possible intensification of use, and the list goes on. The letter asserts that "these violations present public health issues that need to be addressed without delay". Why weren't you and the community made aware of this letter in June?

Why weren't you and the community provided with copies of an ambient air quality study that Staff had conducted in Cameron Station in the summer of 2004, to provide information regarding our concerns over air quality? We requested a copy of the report at least five times and only received it after we sent a not so nice message demanding a copy. Upon receipt, the report was still labeled as "draft", almost a year after its publication. The report shows that the PM 10 levels - that's the level of harmful air pollutants - in Cameron Station is among the worst 10 percent nationwide. These levels are more than double the PM 10 levels measured at other nearby measuring stations in Fairfax County. Don't you think this would have been important information for you to know in June? Apparently nothing was done with the report, although readings that high should have spurred further research into the causes and

abatement.

And finally, what more related to Virginia Paving do we not know? That you don't know? Isn't it time to get answers to these questions before you consider extending Virginia Paving's operating hours under a revised SUP request.

Please let me give you a copy of the city Attorney's Office letter, and ask that it be made part of the record.

Thank you.

Joseph S. Bennett
703-567-0153

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9-20-05
referred to by
Joseph
Bennett

RECEIVED
VIRGINIA PAVING CO
OCT 29 2004
ALEXANDRIA OFFICE



OFFICE OF THE CITY ATTORNEY

301 KING STREET, SUITE 1300
ALEXANDRIA, VIRGINIA 22314

<http://cityofalexandria.va.us>

(703) 838-4433

FACSIMILE
(703) 838-4810

October 26, 2004

ASSISTANT CITY ATTORNEYS
CATHERINE RICHARDS CLEMENT
MARY ELLIOTT
JOANGLA C. FRIZZELL
GEORGE McANDREWS
KAREN S. SNOW

IGNACIO BRITTO PESSOA
CITY ATTORNEY

JILL R. APPLEBAUM
SENIOR ASSISTANT CITY ATTORNEY

Dennis A. Luzier, Plant Manager
Virginia Paving Company
5601 Courtney Ave
Alexandria, Virginia 22304

COPY TO:
 EMEZIGDEN
 EKDJ
 KIMAS
 EDAL
 FJM
 RAY
 DLJ
 OMR
 OHS
 OLLB
 OMEM
 ALS
 SUPERVISORS
 File

RE: Violations of State and City Codes at 5601 Courtney Avenue

Dear Mr. Luzier:

Recently, City of Alexandria Departments having responsibility to enforce state and city codes did an inspection of the Virginia Paving Company plant. Those inspections showed numerous violations of state and city codes as well as of the Special Use Permit governing this plant. The specific violations are detailed in the enclosed document.

In an effort to resolve the problems discovered at the plant, we would like to set up a meeting with you to discuss the situation and the action that needs to be taken to remedy the violations and any damage that has been caused by the violations. It is our hope that we can discuss a voluntary resolution to this matter including an acceptable remediation plan. However in the event Virginia Paving Company is unwilling to resolve the problem to the City's satisfaction, will take further legal action which may include revoking the Special Use Permit currently in place and obtaining court orders preventing Virginia Paving Company from continuing to violate the state and city codes.

Please contact me as soon as possible to set up a time in the next couple weeks for you to meet with the different City Departments involved in this enforcement action. Given the magnitude of these violations, we request that relevant decision makers for your company or your parent corporation attend this meeting. I can be reached at (703) 838-4433. We would like to hear from you within 10 days from the date of this letter as these violations present public health issues that need to be addressed without delay.

Dermis A. Luzier, Plant Manager
October 26, 2004
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We look forward to working with you to resolve this matter expeditiously.

Yours very truly,



Joanna C. Frizzell
Assistant City Attorney

Enclosure

cc: R.E. Alger, President, The Lane Construction Corporation, 965 East Main Street,
Meriden, CT, 06450
CT Corporation System, Registered Agent for The Lane Construction Corporation, 4701
Cox Road, Suite 301, Glen Allen, Virginia, 23060
Philip Sunderland, City Manager
Arthur Dahlberg, Director, Code Enforcement
Mike Connor, Chief Fire Marshal
Rich Baier, Director, Transportation and Environmental Services
Hal Phipps, Division Chief, Planning and Zoning
William Skrabak, Division Chief, Environmental Quality
Ignacio Pessoa, City Attorney

Violations at 5601 Courtney Avenue determined as of October 26, 2004

State Water Control Law, Virginia State Code Title 62.1, Chapter 3.1

1. 62.1-44.5 - Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.

State Fire Code, Virginia State Code Title 27, Chapter 9

1. 2703.4.2 - Above ground stationary tanks used for the storage of hazardous materials shall be located and protected in accordance with the requirements for outdoor storage of the particular material involved and shall be marked as required by Section-2703.5.
2. 2703.2.5 - Empty containers and tanks previously used for storage of hazardous materials shall be free from residual material and vapor as defined by DOT, the Resource Conservation and Recovery Act (RCRA) or other regulating authority or maintained as specified for the storage of hazardous material.
3. 2703.3 - Hazardous materials in any quantity shall not be released into a sewer, storm drain, ditch, drainage canal, creek, stream, river, lake or tidal waterway or on the ground, sidewalk, street, highway or into the atmosphere.
4. 2703.3.1 - When hazardous materials are released in quantities reportable under state, federal, or local regulations, the code official shall be notified.
5. 2703.5 - Visible hazard identification signs as specified by *NFPA 704* for the specific material contained shall be placed on stationary containers and above-ground tanks and at entrances to locations where hazardous materials are stored, dispensed, used or handled in quantities requiring a permit and at specific entrances and locations designated by the code official.
6. 2703.5.1 - Individual containers, cartons or packages shall be conspicuously marked or labeled in an approved manner. Rooms or cabinets containing compressed gases shall be conspicuously labeled: COMPRESSED GAS.
7. 2703.9.1.1 - Responsible persons shall be designated and trained to be liaison personnel to the fire department. These persons shall aid the fire department in preplanning emergency Responses and identifying the locations where hazardous materials are located, and shall have access to Material Safety Data Sheets and be knowledgeable in the site emergency response procedures.
8. 2703.9.2 - Storage, dispensing, use and handling areas shall be secured against unauthorized entry and safeguarded with such protective facilities as public safety requires.
9. 2703.9.3 - Guard posts or other approved means shall be provided to protect storage tanks and connected piping, valves and fittings; dispensing areas; and use areas subject to vehicular damage in accordance with Section 312.

10. 2704.2 – Rooms, buildings or areas used for the storage of liquid or solid hazardous material shall be provided with spill control and secondary containment.
11. 2704.2.1 – Rooms, buildings or areas used for the storage of hazardous material liquids in individual vessels having a capacity of more than 55 gallons (208L), or in which the aggregate capacity of multiple vessels exceeds 1,000 gallons (3785L), shall be provided with spill control to prevent the flow of liquids to adjoining areas. Floors in indoor locations and similar surfaces in outdoor locations shall be constructed to contain a spill from the largest single vessel.
12. 2704.2.2.1 – The building, room or area shall contain or drain the hazardous materials and fire protection water through an approved method such as sumps, liquid tight floors, liquid tight sloped or recessed floors or other approved engineered systems.
- 13. 304.1 – Combustible waste material creating a fire hazard shall not be allowed to accumulate in buildings or structures or upon premises.
14. 2210.2.2 – Waste oil, motor oil and other Class-IIIB liquids shall be stored in approved tanks or containers, which are allowed to be stored in and dispensed from repair garages.
15. 2210.2.3 – Garage floors drains shall drain to approved oil separators or traps discharging to a sewer in accordance with the *International Plumbing Code*. Contents of oil separators, traps and floor drainage systems shall be collected at sufficiently frequent intervals and removed from the premises to prevent oil from being carried into the sewers.

Special Use Permit Number 399 issued February 10, 1960

– Conditions of the Special Use Permit that are currently not in compliance:

- operations of the plant that require exit or entrance of vehicles from the plant are prohibited during hours of darkness or inclement weather or Sundays and holidays.
- satisfactory settling basins to be provided to prevent discharge of silt, asphalt, etc into Back Lick Run. Our inspection showed that they do not have these required settling basins.
- Possible intensification of the use if the State grants the current application for an amendment to the state permit to increase their throughput from 840K ton to 1 Million ton.

City of Alexandria Environmental Offenses Ordinance, City Code Title 11, Chapter 13

1. Sec. 11-13-2 Illegal dumping prohibited: It shall be unlawful for any person to dump any waste on any property, in any waters or in any sanitary sewer or stormwater system, except as authorized by law or by applicable permit. It shall be the burden of the alleged violator to show proof of any applicable permits.

Miscellaneous Offenses

- Possible encroachment onto City owned property bordering the Virginia Paving plant.
- Damage to City right of way at various intersections caused by asphalt spillover and accumulation.



ALEXANDRIA FIRE - EMS
CODE ENFORCEMENT BUREAU
INSPECTION REPORT

CC-DAL
P.O. BOX 178
ALEXANDRIA, VIRGINIA 22313
703-838-4360
FAX 703-838-3880

1 of 1 COMPLIANCE REQUEST NOTICE OF VIOLATION KNOX BOX

CODE CASE NO. _____

LOCATION OF INSPECTION: 100 East Cliff St CENSUS _____ ZONE BOX _____ DATE _____ UNIT NO. / FIELD RECORD NO. _____

PERSON RESPONSIBLE FOR PROPERTY: DANNIS A. LUZIER ADDRESS: 100 East Cliff St DAY PHONE: 703-751-7100

CODE ENFORCEMENT USE ONLY: COMPLAINT CODE _____ PROGRAM CODE _____ INSPECTOR / OFFICER: NFM Andree L. Bichsen

FINAL DISPOSITION: APPROVED _____ DENIED _____ APPEARS TO COMPLY _____ ABATED _____ UNFOUNDED _____ REFERRED TO _____ CASE OPENED _____ INSPECTOR / OFFICER CONTACT PHONE: 703-519-3300 X128

CODE SECTION	DESCRIPTION	DUE DATE*
2703.3.1	All releases shall be reported immediately to the Alexandria Fire Department.	
2703.3.1.4	The person firm or corporation shall institute clean-up of spill and provide documentation as to waste disposal of material was incurred.	
	For documentation to the attention of Andree L. Bichsen at 703-838-4360	
	Fuel Oil Spill ON EAST CLIFF STREET.	

Note: Violations must be corrected prior to ASAP A.M. / P.M. on ASAP. ** Failure to comply with this order may subject you to penalties as prescribed by law. If you want to appeal this notice you must notify the fire / code official in writing within 20 days of receipt of this notice.

Inspector / Officer: [Signature] Date: 6/10/04 Received by: [Signature]

IN EVENT OF A FIRE OR MEDICAL EMERGENCY, CALL 9-1-1

White - Served Yellow - Inspector Pink - File

