

OHIO E.P.A.

JAN 31 2007

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the matter of:

Kingswood Group Inc.  
13370 Prospect Road  
Strongsville, Ohio 44149

: Director's Final Findings and  
: Orders  
:

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

PREAMBLE

The parties hereto agree as follows:

By: [Signature] Date: 1-31-07

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Kingswood Group, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") 6111.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent, or of the Site owned by Respondent shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111 and the rules promulgated thereunder.

IV. FINDINGS OF FACT

1. Respondent is the developer of the West Hampton Subdivision site ("the Site"), a residential development located off of York Road, in North Royalton, Cuyahoga County, Ohio.
2. Respondent submitted Permit to Install Application (PTI) 02-16075 and detailed plans to the Ohio EPA Northeast District Office for the installation of a sanitary sewer extension to serve the Site. The plans were received by Ohio EPA December 21, 2001. The sanitary sewer extension proposed in PTI Application 02-16075 is a "disposal system" as defined in ORC Section 6111.01(G).
3. On January 10, 2003, Ohio EPA sent a letter to Respondent regarding Application 02-16075. In this letter, the Ohio EPA requested that Respondent, among other

things, revise the detailed design plans that were part of the PTI application. On June 25, 2003, Respondent submitted revised plans.

4. On July 1, 2003, Respondent sent a letter to Respondent regarding Application 02-16075. In this letter, the Ohio EPA repeated a request for a revision made January 10, 2003. Respondent did not respond to this letter. A permit to install was never issued for Application 02-16075.
5. On July 28, 2006, an inspector for the Ohio EPA inspected the Site and observed that the sewer extension proposed in Application 02-16075 had already been installed prior to the issuance of the permit to install authorizing installation of the sewer extension.
6. Ohio Administrative Code ("OAC") Rule 3734-42-02 prohibits the installation of a new disposal system or the modification of an existing disposal system without a permit to install.
7. ORC Section 6111.07 (A) prohibits any person from violating, or failing to perform, any duty imposed by ORC 6111.01 to 6111.08, or violating any rule adopted by the Director pursuant to those sections, including OAC Rule 3745-42-02.
8. Installation of the sanitary sewer extension prior to issuance of the PTI is a violation of both OAC Rule 3745-42-02 and ORC Section 6111.07.
9. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

#### V. ORDERS

1. Respondent shall not install sewerage lines, treatment works for sewage disposal, or new disposal systems, including, but not limited to, sanitary sewers, at any location in Ohio without first receiving prior approval from the Director as required by law.
2. Respondent shall within thirty (30) days from the effective date of these orders submit as-built plans certified by a professional engineer accurately describing the sewerage line extension referred to in the above Findings of Fact. Ohio EPA reserves the right to require Respondent to construct modifications to the sewerage line as-built in order that the sewerage line extension comply with the requirements of Ohio statutes and rules.

3. Respondent shall pay to the Ohio EPA the amount of two thousand four hundred eighty-eight dollars (\$2,488.00) in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter 6111 of the Ohio Revised Code. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the full amount within thirty (30) days after the effective date of these Findings and Orders to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the project (Kingswood Group, Inc. - West Hampton Subdivision)

A photocopy of the check shall be sent to Ohio EPA Northeast District Office at the address listed below:

Ohio Environmental Protection Agency  
Northeast District Office  
2110 East Aurora Road  
Twinsburg, Ohio 44087

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of Respondent.

### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to the Site.

### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

### **X. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XI of these Orders.

### **XI. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction of Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

**XII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIII. SIGNATORY AUTHORITY**

Each undersigned representative or party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:  
Ohio Environmental Protection Agency**

Laura H. Powell      1-29-07

Laura H. Powell  
Acting Director

Date

**IT IS SO AGREED:  
Kingswood Group, Inc.**

Chris A. Bender      1-8-07

Signature

Date

Chris A. Bender  
Printed or Typed Name

President  
Title