

**DEPARTMENT OF PUBLIC HEALTH  
STATE OF ILLINOIS**

THE DEPARTMENT OF PUBLIC HEALTH,	)	
STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
vs.	)	Docket No. AB 17-13
	)	
ALL SEASONS PLUMBING & SEWER CORP.,	)	
Non-licensed,	)	
	)	
Respondent.	)	

**NOTICE OF INTENT TO ASSESS A CIVIL PENALTY AND  
NOTICE OF OPPORTUNITY FOR HEARING**

Pursuant to the authority granted the Department of Public Health by the Asbestos Abatement Act (105 ILCS 105/1 *et seq.*) and the Commercial and Public Building Asbestos Abatement Act (225 ILCS 207/1 *et seq.*) (hereinafter Act), NOTICE IS HEREBY GIVEN:

**NOTICE OF INTENT TO ASSESS A CIVIL PENALTY**

The Department of Public Health intends to assess against Respondent All Seasons Plumbing & Sewer Corp. a civil penalty of Sixteen Thousand Dollars (\$16,000.00). This action is based upon Respondent's failure to comply with the provisions of the Asbestos Abatement Act [105 ILCS 105], the Commercial and Public Building Asbestos Abatement Act [225 ILCS 207], and Rules and Regulations promulgated pursuant thereto (hereinafter Code) (77 Ill. Adm. Code 855).

**ALLEGATIONS OF NONCOMPLIANCE**

1. Respondent All Seasons Plumbing & Sewer Corp. is not licensed through the Illinois Department of Public Health as an asbestos abatement contractor.
  
2. Respondent All Seasons Plumbing & Sewer Corp. is not licensed through the Illinois Department of Public Health as an asbestos supervisor.
  
3. Respondent All Seasons Plumbing & Sewer Corp. conducted asbestos abatement activities in the Lowell-Longfellow Elementary School, 15636 Lexington Street, Harvey, Illinois that were not in accordance with the requirements of the Illinois Asbestos Abatement for Public and Private Schools and Commercial and Public Buildings [77 Ill. Adm. Code Part 855].
  
4. On September 20, 2016, the Complainant's inspector investigated the asbestos complaint at the Lowell-Longfellow Elementary School, 15636 Lexington Street, Harvey, Illinois and observed that Respondent All Seasons Plumbing & Sewer Corp. had improperly removed asbestos containing

**Ex A**

flooring materials as part of the scope of work without using proper engineering controls and proper work procedures.

5. During the course of the renovation project, actions were taken by Respondent All Seasons Plumbing & Sewer Corp. and others in a manner that may have endangered or resulted in injury to the students, the teachers or other building occupants.

6. Respondent All Seasons Plumbing & Sewer Corp. committed the following violations:

- a. **225 ILCS 207 Section 35. Licensing. (1):** Respondent All Seasons Plumbing & Sewer Corp. acted as an asbestos abatement contractor when they removed greater than three (3) square feet of friable asbestos containing building materials inside the Lowell-Longfellow Elementary School building without being licensed by the IDPH.
- b. **225 ILCS 207 Section 35. Licensing. (2):** Respondent All Seasons Plumbing & Sewer Corp. acted as an asbestos supervisor when they removed greater than three (3) square feet of friable asbestos containing building materials from the Lowell-Longfellow Elementary School building without being licensed by the Department.
- c. **Section 855.350 (a):** Respondent All Seasons Plumbing & Sewer Corp. did not ensure that the Department was notified at least 10 working days prior to the commencement of the asbestos floor tile removal project activities.
- d. **Section 855.370 (a):** Respondent All Seasons Plumbing & Sewer Corp. did not require all personnel to enter the work area through the worker decontamination enclosure system during the asbestos floor tile removal project.
- e. **Section 855.380 (a):** Respondent All Seasons Plumbing & Sewer Corp. did not ensure a negative pressure differential of 0.02 inches of water column was maintained at all times during the asbestos floor tile removal project.
- f. **Section 855.400 (a):** Respondent All Seasons Plumbing & Sewer Corp. did not ensure the work area was secured with barriers prior to the start of the asbestos floor tile removal project.
- g. **Section 855.400 (h):** Respondent All Seasons Plumbing & Sewer Corp. did not ensure a worker decontamination enclosure system was provided prior to the start of the asbestos floor tile removal project.
- h. **Section 855.400 (i):** Respondent All Seasons Plumbing & Sewer Corp. did not ensure two layers of plastic sheeting were covering the walls during the asbestos floor tile removal project.
- i. **Section 855.410 (a):** Respondent All Seasons Plumbing & Sewer Corp. did not ensure a worker decontamination enclosure system was provided at all locations where workers entered and exited the work area during the asbestos floor tile removal project.



- j. **Section 855.425 (a):** Respondent All Seasons Plumbing & Sewer Corp. did not ensure an equipment decontamination enclosure system was provided for the removal of asbestos waste from the contained area during the asbestos floor tile removal project.
- k. **Section 855.430 (b)(1):** Respondent All Seasons Plumbing & Sewer Corp. did not ensure that all separation barriers were erected prior to the start of the asbestos floor tile removal project.
- l. **Section 855.450 (a):** Respondent All Seasons Plumbing & Sewer Corp. did not ensure all enclosure systems were constructed and tested prior to beginning the asbestos floor tile removal project.
- m. **Section 855.460 (b):** Respondent All Seasons Plumbing & Sewer Corp. did not ensure that all asbestos containing building materials was wetted with amended water and kept wet to prevent fiber release until containerized for disposal during the asbestos floor tile removal project.
- n. **Section 855.465 (b):** Respondent All Seasons Plumbing & Sewer Corp. did not ensure that all decontamination enclosure systems remained in place and functioning during the asbestos floor tile removal project.
- o. **Section 855.470 (a):** Respondent All Seasons Plumbing & Sewer Corp. did not notify the project manager that the contained area was ready for clearance air monitoring during the asbestos floor tile removal project.
- p. **Section 855.520 (a):** Respondent All Seasons Plumbing & Sewer Corp. did not ensure the work area was properly re-established after the asbestos floor tile removal project was conducted.

### PENALTY CALCULATION

The Asbestos Abatement Act and the Commercial and Public Buildings Asbestos Abatement Act empowers the Department to assess civil penalties for violations of the aforementioned Acts and the regulations promulgated thereunder.

**(225 ILCS 207/55)**

**Sec. 55. Civil Penalties.** The Department is empowered to assess civil penalties for violations of this Act and the rules promulgated under this Act pursuant to the rules for such penalties established by the Department.

### Justification for assessment of fine

**Section 855.610 b):** *The Department shall consider the following criteria independently and aggregately to determine whether a fine shall be assessed:*

**Section 855.610 b)3):** *Whether the violation is of such nature as to result in the possibility of injury or other harm to the environment, to the person's agents or employees, to the building owner, users, or occupants, or to the general public.*

**Section 855.610 (b)(4):** *Whether the violation appears to be the result of any degree of negligence by the person or by the person's agents or employees.*

Respondent All Seasons Plumbing & Sewer Corp. conducted the removal of asbestos containing floor tile materials without utilizing all the required engineering controls to ensure public health was protected from asbestos exposures.

**Section 855.610 c):** *Criteria to determine the amount of a fine and/or penalty for a violation of any provision of the Asbestos Abatement Act, the Commercial and Public Building Asbestos Abatement Act, or of this Part are as follows. All amounts determined pursuant to these criteria shall be added together to determine the total fine against the person.*

**Section 855.610 c)1) -** The person may be fined \$1,000 for each first violation.

**Section 855.610 c)1) – (16) First Violations x \$1,000 = \$16,000**

**Total Penalty = \$16,000**

### **NOTICE OF OPPORTUNITY FOR HEARING**

In accordance with Section 855.610(d) of the Code, the Respondent is hereby offered the opportunity for an administrative hearing before a duly appointed Administrative Law Judge to show cause why this penalty and fine should not be assessed, provided that a **written hearing request is received from Respondent within fifteen (15) days from the date this Notice is mailed.**

**FAILURE TO REQUEST THE HEARING AS SPECIFIED HEREIN SHALL  
CONSTITUTE A WAIVER OF THE RIGHT TO SUCH HEARING AND  
SHALL RESULT IN THE ENTRY OF A FINAL ORDER AFFIRMING  
THE CIVIL PENALTY SET FORTH IN THIS NOTICE**

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### **ANSWER BY RESPONDENT**

If Respondent timely requests a hearing, then in accordance with Section 100.7(d) of the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

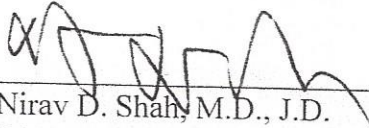
the Respondent must file a written answer to the Allegations of Noncompliance, within twenty (20) days after receiving this Notice.

**FAILURE TO FILE AN ANSWER WITHIN TWENTY (20) DAYS  
OF THE RECEIPT OF THIS NOTICE SHALL CONSTITUTE  
RESPONDENT'S ADMISSION OF THE ALLEGATIONS OF NONCOMPLIANCE**

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The Hearing Request and Answer shall be made in writing and directed to Kevin P. Jacobs, Assistant General Counsel, Division of Legal Services, 535 West Jefferson Street, 5th Floor, Springfield, Illinois 62761.

Dated this 28 day of March, 2017.

  
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Nirav D. Shah, M.D., J.D.  
Director of Public Health