

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO, ex rel.	:	Case No. 84-CV-611
ANTHONY J. CELEBREZZE, JR.	:	
ATTORNEY GENERAL OF OHIO,	:	JUDGE SHAKER
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
DONALD J. CASALE	:	
d/b/a HOWLAND MOBILE HOMES	:	
PARK AND SALES, et al.,	:	
	:	
Defendants.	:	

CONSENT JUDGMENT

The State of Ohio on relation of its Attorney General, Anthony J. Celebreeze, Jr., filed a Complaint seeking injunctive relief and civil penalties for Defendants' alleged violations of various provisions of Ohio Revised Code Chapters 6111 and 3767. With regard to the issues of preliminary injunctive relief, the parties have already entered a Consent Judgment resolving those issues. That judgment was journalized by the Court on July 3, 1984. This Consent Judgment constitutes the final Order of this Court regarding the issues of permanent injunction relief and of civil penalties.

THEREFORE, without trial of any issue of fact or law, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over the subject matter herein pursuant to Chapters 6111 and 3767 of the Ohio Revised Code. The Amended Complaint states a claim upon which relief can be granted against Defendants under these statutes. The Court has jurisdiction over the parties hereto. Venue is proper in this Court.

II. PERSONS BOUND

2. The provisions of this Judgment shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns and successors in interest.

III. SATISFACTION OF LAWSUIT

3. Compliance with the terms of this Consent Judgment shall constitute full satisfaction of any civil liability of the Defendants for all violations of Chapters 6111 and 3767 of the Ohio Revised Code and the rules adopted thereunder known to the Plaintiff at this time for Defendants' operation of the sewage system and treatment works located at Howland Mobile Home Park and Sales (hereinafter "the Park"), 9035 East Market Street, Warren, Trumbull County, Ohio. The judgment shall not limit the authority of the State of Ohio to seek relief for other claims not known at this time or involving other places of business of the Defendants, or for future violations of Ohio Revised Code Chapters 6111 and 3767. All violations known to Plaintiff have been alleged in the Amended Complaint.

IV. COMPLIANCE WITH THE CONDITIONS
OF THE PERMIT TO INSTALL

4. The Defendants are ordered to comply with all terms of the Permit to Install issued to them by the Director of the Ohio Environmental Protection Agency (hereinafter "Ohio EPA"),

a copy of which is attached as Exhibit 1 to this Consent Judgment and is incorporated by reference.

5. The Defendants are ordered to meet the following effluent limitations and monitoring requirements for the sewage treatment system installed at the Park.

REPORTING Code	EFFLUENT CHARACTERISTIC UNITS PARAMETER	DISCHARGE LIMITATIONS Concentration (Specify)				MONITORING REQUIREMENTS	
		Other Units	kg/day	Meas. Freq.	Sample Type		
50050	MGD Flow	--	--	--	--	Daily	Estimate*
00530	mg/l Suspended Solids	50	50	--	--	Monthly	Grab
00310	mg/l BOD ₅	40	40	--	--	Monthly	Grab
31616	Count Fecal Coliform 100ml Summer Only	--	--	--	--	Monthly	Grab
01350	No. Turbidity, Severity**	--	--	--	--	Daily	--
01330	No. Odor, Severity**	--	--	--	--	Daily	--
(1)	No. Color, Severity**	--	--	--	--	Daily	--

* Estimate based upon timer or clock on pumps.

** Report number between 0 and 4 from table below. Interpolate between the descriptive phrases.

No.	Severity Desc.	Turbidity	Odor	Color
0	None	Clear	None	Colorless
1	Mild			
2	Moderate	Light Solids	Musty	Grey
3	Serious			
4	Extreme	Heavy Solids	Septic	Black

2. The pH (Reporting Codes 00400 (average)), shall not be less than 6.5 S.U. nor greater than 9.0 S.U. and shall be monitored monthly by means of a grab sample.

3. The Chlorine Residual (Reporting Code 50060) shall be maintained at a level not less than 0.2 mg/l and shall be monitored monthly by means of a grab sample (summer only).

4. The Dissolved Oxygen (Reporting Code 00300) shall be monitored monthly by means of a grab sample.

Said effluent limitations and monitoring requirements for the sewage treatment system at the Park shall remain in force until the Park is fully connected to Trumbull County's operating sanitary sewer line, as set forth in paragraph 9.

6. Defendants are ordered to employ a Class I operator to oversee the operation of the sewage facility at the Park. Within ten business days after the entry of this Judgment, Defendants shall notify the Northeast District Office of Ohio EPA (at the address specified in paragraph 7) of the name, address and the license number of the Class I operator so employed by Defendants. Defendants shall notify Ohio EPA within five business days should it change Class I operators.

7. Defendants are ordered to file monthly reports with the results of the monitoring required by Paragraph 5, supra, signed by the Class I. Operator that oversees the operation of the sewage treatment plant at the Park. Each report shall include a statement of any known or suspected exceedances of the discharge limitations set forth in paragraph 5, supra, identifying the date of the exceedance; the amount thereof; the reason for the exceedance, if known; and the measures taken to prevent future exceedances. The report required by this Consent Judgment for each month shall be received by Northeast District Office of Ohio EPA no later than the 15th day of the next month. All reports shall be sent to:

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

8. The waste from the two thousand gallon tank installed pursuant to the permit to install shall be pumped when necessary at least once every two months and disposed of at an Ohio EPA approved disposal facility. The seven thousand five hundred gallon tank shall be inspected monthly, and the waste therefrom pumped and disposed of, in the manner described in the preceding sentence, as needed.

V. CONNECTION TO PUBLIC SEWER LINES

9. Trumbull County, Ohio has extended its existing sanitary sewer lines along a route that passes within a thousand feet of the Park. Defendants shall connect the Park to the County's sanitary sewer line no later than seventy-five (75) after said line is operational. Nothing in this paragraph shall be construed to authorize Defendants to connect the Park to the public sanitary sewerage lines without obtaining all appropriate permits and/or paying all appropriate fees, if applicable.

10. No later than thirty (30) days after the Park is connected to the public sewer line, Defendants shall empty all holding tanks and the sewage treatment facility of waste, disposing of said waste in the manner described in paragraph 8; remove the holding tanks from the Park or fill them entirely with clean fill dirt; and cover any sand filter with clean fill dirt to a depth sufficient to prevent water from entering the filter.

VI. CIVIL PENALTY

11. Defendants shall pay a civil penalty of ten thousand dollars (\$10,000) to the Plaintiff. Payment shall be made by tendering a certified check payable to the "Treasurer of the State of Ohio" for this amount to counsel for Plaintiff, or his successor, after entry of this judgment in the following manner: Defendants shall pay Plaintiff five thousand dollars (\$5,000) within ten days after the entry of this Consent Judgment; Defendants shall pay two thousand five hundred dollars (\$2,500) plus eight percent (8%) interest on the balance within one year after entry of this Judgment; Defendants shall pay the remaining two thousand five hundred dollars (\$2,500) plus eight percent (8%) interest within two years after entry of this Judgment.

VII. MISCELLANEOUS

12. Defendants are enjoined from violating any provision of Ohio Revised Code Chapter 6111 and 3767.

13. Nothing in this Order shall release Defendants of their obligations to comply with applicable state or local statutes, rules or ordinances.

14. The Court shall retain jurisdiction of this matter for the purpose of making any Order which it may deem at any time appropriate to carry out the terms of this Consent Judgment.

15. Defendants shall pay all costs of this action.

16. Each party shall bear its own attorneys' fees.

Date

Mitchell F. Shaker

JUDGE MITCHELL F. SHAKER

APPROVED:

STATE OF OHIO, ex rel.
ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO

BY: _____

PAUL D. HANCOCK
DAVID I. SCHIFF
Assistant Attorneys General
Environmental Enforcement
Section
30 E. Broad St., 17th Floor
Columbus, Ohio 43266-0410

Donald J. Casale

DONALD J. CASALE

Michael J. Casale

MICHAEL CASALE

HOWLAND MOBILE HOMES PARK
AND SALES

BY: _____

APPROVED BY:

Carl Casale

CARL CASALE
Attorney for Donald and
Michael Casale and Howland
Mobile Homes Park and Sales

Ohio EPA

Re: Trumbull County
Howland Township
Application for As-Built Holding Tank for
Howland Mobile Home Park
Received June 26, 1984
From Mr. William Englehardt, P.E.

July 2, 1984

Mr. Donald J. Casale
9035 East Market Street
Warren, Ohio 44484

CERTIFIED MAIL

Gentlemen:

Enclosed is the Ohio EPA Permit to Install which will allow you to install the described source in the manner indicated in the permit. Because this permit contains several conditions and restrictions, I urge you to read it carefully.

As indicated on the permit, you are required to pay a permit fee as provided for by Section 3745.11 of the Ohio Revised Code and any rules established thereunder. The exact amount of this fee is indicated on page 1 of the Permit to Install. This amount must be remitted within fifteen (15) days of the effective date of the Permit to Install. Checks should be made payable to: Treasurer, State of Ohio and sent to Permits Bookkeeper, Ohio Environmental Protection Agency, 361 East Broad Street, Columbus, Ohio 43216.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Board of Review pursuant to Section 3745.04 of the Ohio Revised Code by any person who was a party to this proceeding. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. It must be filed with the Environmental Board of Review within thirty (30) days after notice of the Director's action. A copy of the appeal must be served on the Director of the Ohio Environmental Protection Agency and the Environmental Law Division of the Office of the Attorney General within three (3) days of filing with the Board. An appeal may be filed with the Environmental Board of Review at the following address:

Environmental Board of Review
250 East Town Street
Room 101
Columbus, Ohio 43215

State of Ohio Environmental Protection Agency
361 E. Broad St., Columbus, Ohio 43216-1049, (614) 466-8565

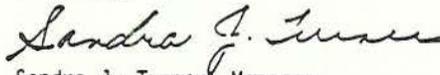
EXHIBIT 1

Mr. Donald J. Casale
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You should note that a general condition of your permit states that issuance of the permit does not relieve you of the duty of complying with all applicable federal, state and local laws, ordinances and regulations.

If you have any questions, please contact the Ohio EPA District Office to which you submitted your application.

Sincerely,



Sandra J. Turner, Manager
Permits & Compliance Programs

SJT/sc

Copy to Trumbull County Health Department
" " Mr. William Englehardt, P.E.
" " Mr. Paul Hancock, Attorney Generals Office
" " Ohio Department of Health
" " Northeast District Office, Public Wastewater

OHIO ENVIRONMENTAL PROTECTION AGENCY

Permit to Install

Application No. 02-1684
Applicant's Name: Mr. Donald J. Casale Permit Fee \$50.00
Address: 9035 East Market Street
City: Warren State: Ohio 44484
Telephone: (216) 856-1070

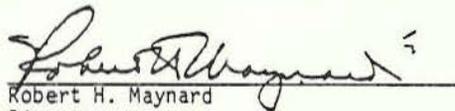
Description of Proposed Source: As-Built Holding Tank for Howland Mobile Home Park, Howland Township, Trumbull County

Issuance Date: July 2, 1984

Effective Date: July 2, 1984

The above named entity is hereby granted a permit to install for the above described source pursuant to Chapter 3745-31 of the Ohio Administrative Code. Issuance of this permit does not constitute expressed or implied approval or agreement that, if constructed or modified in accordance with the plans included in the application, the above described source of environmental pollutants will operate in compliance with applicable State and Federal laws and regulations, and does not constitute expressed or implied assurance that if constructed or modified in accordance with those plans and specifications, the above described source of pollutants will be granted the necessary operating permits. This permit is granted subject to the following conditions attached hereto:

Ohio Environmental Protection Agency


Robert H. Maynard
Director
361 East Broad Street
Columbus, Ohio 43215

Mr. Donald J. Casale
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This permit shall expire if construction has not been initiated by applicant within eighteen months of the effective date of this permit. By accepting this permit, applicant acknowledges that this eighteen month period shall not be considered or construed as extending or having any effect whatsoever on any compliance schedule or deadline set forth in any administrative or court order issued to or binding upon the permit applicant, and applicant shall abide by such compliance schedules or deadlines to avoid the initiation of additional legal action by the Ohio EPA.

The Director of the Ohio Environmental Protection Agency, or his authorized representatives, may enter upon the premises of the above named applicant during construction and operation at any reasonable time for the purpose of making inspections, conducting tests, examining records or reports pertaining to the construction, modification or installation of the above described source of environmental pollutants.

Issuance of this permit does not relieve you of the duty of complying with all applicable federal, state, and local laws, ordinances, and regulations.

This permit is conditioned upon payment of applicable fees as required by Section 3745.11 of the Ohio Revised Code.

If the construction of the wastewater disposal system has already begun or has been completed prior to the date the Director of the Ohio Environmental Protection Agency approves the plans and application, the approval does not constitute expressed or implied assurance that the proposed wastewater disposal system has been constructed in accordance with the approved plans. The action of beginning and/or completing construction prior to obtaining the Director's approval constitutes a violation of the Ohio Administrative Code, Rule 3745-31-02. Furthermore, issuance of the Permit to Install does not constitute an assurance that the proposed wastewater disposal system will operate in compliance with all Ohio laws and regulations. Approval of the plans in any case is not to be construed as an approval of the wastewater disposal system as constructed and/or completed. Moreover, issuance of the Permit to Install is not to be construed as a waiver of any rights that the Ohio Environmental Protection Agency (or other persons) may have against the applicant for starting construction prior to the effective date of the permit. Additional facilities shall be installed upon orders of the Ohio Environmental Protection Agency if the proposed wastewater disposal system proves to be inadequate or cannot meet applicable standards.

This permit shall be invalid unless the permit fee specified above has been paid in full to the Ohio EPA within fifteen days of issuance of this permit to install.

This permit applies to holding tanks designed to serve the existing 58 unit park. No additional flow from new mobile homes shall be made tributary to these holding tanks.

The owner shall be responsible for the proper operation and maintenance of the wastewater disposal system.