

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISON

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. KWAME RAOUL, Attorney General)
of the State of Illinois, and)
CITY OF CHICAGO, an Illinois municipal)
corporation,)
)
Plaintiffs,) 2025CH07765
)
v.) No. 25 CH ____
)
MCC PROPERTIES, LLC)
a Delaware limited liability company,)
MC CONSTRUCTION GROUP, LLC)
an Illinois limited liability company, and)
FINTAN MCCARTHY, an individual,)
)
Defendants.)

VERIFIED COMPLAINT FOR INJUNCTION AND CIVIL PENALTIES

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), and the CITY OF CHICAGO, an Illinois municipal corporation, by its Corporation Counsel, Mary B. Richardson-Lowry, complain of Defendants, MCC PROPERTIES, LLC, a Delaware limited liability company (“MCC Properties”), MC CONSTRUCTION GROUP, LLC, an Illinois limited liability company (“MC Construction”), and FINTAN MCCARTHY, an individual (referred to collectively as “Defendants”), as follows:

COUNTS BROUGHT BY THE PEOPLE OF THE STATE OF ILLINOIS

COUNT I
SUBSTANTIAL DANGER TO THE ENVIRONMENT,
PUBLIC HEALTH AND WELFARE

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, the Attorney General of the State of Illinois, on his own motion and at the request of Illinois EPA, against Defendants pursuant to the terms and provisions of Section 43(a) of the Illinois Environmental Protection Act (the “Act”), 415 ILCS 5/43(a) (2024), and is an action to restrain a substantial danger to public health and welfare and to the environment. The People seek immediate and preliminary injunctive relief and civil penalties for the release of asbestos into the environment at the industrial facility located at 6001-6169 W. Dickens Avenue, Chicago, Cook County, Illinois (“Facility”).

2. Illinois EPA is an administrative agency of the State of Illinois created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2024), and charged, *inter alia*, with the duty of enforcing the Act.

3. Upon information and belief, at all times relevant to this Verified Complaint, MCC Properties was and is a Delaware limited liability company.

4. At all times relevant to this Verified Complaint, MC Construction was and is an Illinois limited liability company in good standing.

5. At all times relevant to this Verified Complaint, MCC Properties has been and is the owner of the Facility.

6. At all times relevant to this Verified Complaint, Mr. McCarthy has been and is an Illinois resident.

7. At all times relevant to this Verified Complaint, Mr. McCarthy has been and is an agent of MCC Properties and MC Construction.

8. On information and belief, at all times relevant to this Verified Complaint, Mr. McCarthy has controlled and supervised, and continues to control and supervise MCC Properties' and/or MC Construction's construction, material processing, and renovation type activities performed at the Facility, including making most, if not all, significant decisions related to the handling of asbestos-containing material ("ACM") at the Facility.

9. On information and belief, at all times relevant to this Verified Complaint, Mr. McCarthy has been and continues to be the primary individual responsible for securing the Facility and keeping trespassers out of the Facility.

10. On information and belief, at all times relevant to this Verified Complaint, Mr. McCarthy has been and continues to be the primary individual responsible for ensuring compliance with the Act and Illinois Pollution Control Board ("Board") regulations concerning the Facility.

11. On information and belief, at all times relevant to this Complaint, Mr. McCarthy has been and continues to be the primary individual responsible for all communications regarding compliance with environmental laws and regulations with the Chicago Department of Public Health ("Chicago DPH") and Illinois EPA with respect to the Facility.

12. As of the date of the filing of this Complaint, the Facility is located in an area of Environmental Justice ("EJ") concern as identified using Illinois EPA EJ Start.

13. The Facility is an approximately 700,000 square foot commercial/industrial building. The Facility is located immediately to the east of the Burbank Elementary School and is across the street from multiple blocks of residential buildings.

14. On April 24, 2024, Chicago DPH, the Chicago Department of Buildings, and the Chicago Fire Department performed a visual inspection at the Facility (“2024 Inspection”).

15. During the 2024 Inspection, Chicago DPH personnel saw suspect ACM throughout the Facility, including damaged, friable suspect ACM and suspect ACM in poor condition. Chicago DPH personnel saw multiple piles of debris and saw suspect ACM hanging from roofing trusses, framing, and beams.

16. During the 2024 Inspection, Axis Engineering Group, LLC (“Axis”), a licensed asbestos inspector and contractor, was also present at the invitation of MCC Properties, MC Construction, and/or Mr. McCarthy. On April 24, 2024, after the 2024 Inspection completed, Chicago DPH informed Mr. McCarthy that no work was to be conducted at the site until a licensed asbestos abatement contractor inspected the Facility and proposed a plan for abatement to Chicago DPH. Mr. McCarthy, through Defendants’ counsel who was also present, agreed to Chicago DPH’s direction. Chicago DPH confirmed with Axis that Axis would conduct inspection, sampling, and laboratory analysis of samples of suspect ACM throughout the Facility.

17. On or about April 30, 2024, Axis collected approximately 51 samples of suspect ACM from the Facility (“2024 Samples”).

18. On or about May 1, 2024, a laboratory analyzed the 2024 Samples for asbestos content and found that the samples of the Facility’s roof field and seal material, skylight seal material, floor tile and mastic, adhesive, duct insulation, pipe fitting, and other thermal system insulating material at the Facility contained 2% to 60% chrysotile asbestos content (“2024 Sample Results”).

19. On information and belief, by May 31, 2024, asbestos-containing thermal system insulation had been removed from metal pipes at the Facility.

20. On April 1, 2025, Chicago DPH inspected the exterior of the Facility and heard machinery operating inside the Facility.

21. On April 15, 2025, Chicago DPH saw debris processing equipment being delivered to the Facility's interior and observed debris piles, cement piles, and tire piles within a portion of the Facility's interior.

22. On April 23, 2025, Chicago DPH observed an uncovered dump truck removing material, including pieces of wood, from the Facility's interior.

23. On April 24, 2025, Chicago DPH received a copy of the 2024 Sample Results.

24. On April 25, 2025, Chicago DPH observed motorized earth-moving construction-type equipment entering the Facility's interior and saw evidence of work on debris piles within the Facility, including a large excavator processing black tar underlayment and other debris materials.

25. On April 25, 2025, the Commissioner of Chicago DPH ("Commissioner") issued Cease and Desist and Abatement Orders to Mr. McCarthy and MC Construction ("First Chicago DPH Order").

26. On April 28, 2025, the Commissioner issued Cease and Desist and Abatement Orders to MCC Properties ("Second Chicago DPH Order").

27. On May 6, 2025, Chicago DPH and Occupational Safety and Health Administration ("OSHA") inspectors inspected limited portions of the Facility ("May 6, 2025 Inspection"). At that time, in addition to the presence of the piles described below in paragraph 29, the conditions of the Facility were as follows:

- a) The Facility was in poor condition with broken windows and broken glass;

- b) A large portion of the Facility's roofing material had fallen to the floor or been removed so that the roof was open to the sky over eastern portions of the Facility;
- c) The floor of the Facility was dusty throughout, and water was puddled in some areas;
- d) Debris piles, used metal pipes, and thermal pipe insulation in poor condition were located at various locations throughout the Facility; and
- e) Broken floor tile and mastic were present at various locations within the Facility.

28. During the May 6, 2025 Inspection, Chicago DPH observed evidence of renovation since April 24, 2024, as to the skylight roofing, from which roof trusses and beams and other material and structural elements had been removed.

29. During the May 6, 2025 Inspection, an OSHA-operated drone videotaped conditions in various portions of the Facility, including a portion of the intact roof on the western and southwestern portions of the Facility, which are the areas closest to Burbank Elementary School. The video showed there were large, uncovered piles of material which were visually consistent with roofing material. These piles were open to the elements and were not present during the 2024 Inspection.

30. During the May 6, 2025 Inspection, Chicago DPH took samples of suspect ACM in eight locations at the Facility, labeled S-1 through S-8, including the following:

- a) Sample S-2 consisted of thermal system insulation that was collected as residual material from a section of pipe on a cart. The section of

approximately 15 to 20 feet of pipe was one of 20 pieces, with another 10 carts present.

- b) Sample S-6 consisted of floor tile and mastic that was taken from the second floor near the southeast corner of the room/section adjacent to an opening in the wall, where the second floor ended, and the Chicago DPH inspectors could see the first floor, on which crushed rock and other debris were piled.
- c) Samples S-7 and S-8 consisted of a white friable material that was located on two adjacent pipes within 10 feet of where Sample S-6 was taken.

31. The laboratory analysis of the samples taken by Chicago DPH inspectors during the May 6, 2025 Inspection demonstrated that the flooring material and mastic contained between 1% to 5% chrysotile asbestos (Sample S-6), and the thermal insulation contained between 5% to 15% chrysotile asbestos (Samples S-2, S-7, and S-8).

32. On May 8, 2025, Illinois EPA issued and posted a Seal Order for the Facility, any dumpsters and transfer containers associated with demolition and/or renovation activities at the Facility, pursuant to Section 34 of the Act, 415 ILCS 5/34 (2024), stating that the Facility contains asbestos-containing pipe insulation, duct insulation, pipe fittings, adhesives, floor tile and mastic, roofing, and window seals.

33. On May 9, 2025, Illinois EPA performed an inspection at the Facility and observed portions of the ground floor and second floor of the Facility ("May 9, 2025 Inspection"). During the May 9, 2025 Inspection:

- a) Large piles of debris were located in several locations along the south wall of the first floor, and there was one very large pile of debris, approximately 26,250 cubic feet, towards the center of the eastern portion of the Facility;
- b) Several piles of debris throughout the Facility contained fragments of floor tile and roofing materials;
- c) Floor tile and roofing materials appeared to be commingled with other debris in piles;
- d) Corrugated pipe insulation was present at various locations in the Facility and various fragments of insulation were visibly hanging from overhead pipes and pipes on the ground; and
- e) Large collections of pipes had no visible insulation but were covered with toolmarks, indicating insulation may have been scraped from the pipe.

34. During the May 9, 2025 Inspection, Illinois EPA was not able to find access to the roof on the western and southwestern portions of the Facility, among other areas, and thus was unable to complete its inspection of the Facility.

35. On May 16, 2025, Illinois EPA performed an additional inspection at the Facility (“May 16, 2025 Inspection”).

36. During the May 16, 2025 Inspection, Illinois EPA was able to access the roof on the western and southwestern portions of the Facility. On that portion of the Facility’s roof, Illinois EPA observed approximately 70 large (average of four feet high), uncovered piles of material which were visually consistent with roofing material (“the Roof Debris Piles”). The Roof Debris Piles were and are open to the elements.

37. During the May 16, 2025 Inspection, Illinois EPA observed tread and scrape marks on the roof that appeared to be from heavy equipment usage.

38. During the May 16, 2025 Inspection, Illinois EPA accessed a separate area above the second floor of the Facility where insulated pipes were still present. Illinois EPA measured the piping and determined it exceeded 260 linear feet.

39. After the May 16, 2025 Inspection, Illinois EPA determined through a Google Earth aerial photo that the Roof Debris Piles had been present since at least November 26, 2024, demonstrating that Defendants began renovation activities at the Facility no later than November 26, 2024, at least on the western and southwestern roof of the Facility.¹

40. On May 22, 2025, an inspector for Chicago DPH observed lights on inside the Facility in an area behind the north wall of the Facility and heard metal clanging noises coming from that area (“Workshop Area”).

41. On May 23, 2025, Illinois EPA issued and posted a modified Seal Order (“Modified Seal Order”) for the Facility. In addition to Illinois EPA, the Modified Seal Order granted access to the Facility for employees of Chicago DPH.

42. On May 23, 2025, Illinois EPA and Chicago DPH performed an inspection at the Facility (“May 23, 2025 Inspection”). During the May 23, 2025 Inspection, Chicago DPH observed the Roof Debris Piles and confirmed that the Roof Debris Piles had not been present on the roof of the Facility during the 2024 Inspection.

43. During the May 23, 2025 Inspection, Chicago DPH also determined that thermal pipe insulation that Chicago DPH had seen during the 2024 Inspection had been removed from a

¹ Available at [November 26, 2024 Google Earth Link](#); [April 21, 2024 Google Earth Link](#).

pipe in at least one location of the Facility between the 2024 Inspection and the May 23, 2025 Inspection.

44. During the May 23, 2025 Inspection, Illinois EPA and Chicago DPH identified the Workshop Area as a walled-in area within the Facility. The Workshop Area's doors inside and outside the Facility were locked and could not be entered by Illinois EPA and Chicago DPH personnel. Through an opening between the bottom of a door to the Workshop Area and the floor of the Workshop Area, Illinois EPA and Chicago DPH observed heavy machinery, construction equipment, and other material handling equipment within the Workshop Area.

45. Beginning on June 2, 2025 and continuing through June 6, 2025, Chicago DPH took photographs of construction equipment newly located across Dickens Avenue from the Facility, on a vacant lot north of the Facility that is owned by MCC Properties. At least one of the pieces of equipment appeared to Chicago DPH and Illinois EPA to be the same piece of equipment seen inside of the Workshop Area on May 23, 2025, based on the fact that at least some of the equipment on the vacant lot was of the same type and/or had the same distinctive markings as equipment photographed in the Workshop Area on May 23, 2025.

46. From June 9 through June 12, 2025, Illinois EPA performed consecutive days of inspection at the Facility ("June 2025 Inspections").

47. During the June 2025 Inspections, Illinois EPA collected a total of eighty-three samples from suspect material at the Facility, including from:

- a) roofing material debris on the floor of the second-floor clerestory area at the Facility;
- b) friable air cell insulation from a hallway on the first floor of the Facility;

c) several debris piles containing roofing material located along the south wall of the first floor; and

d) dark brown aggregate and other unidentifiable debris within the debris piles located along the south wall of the first floor.

48. The laboratory analysis of the samples taken by Illinois EPA during the June 2025 Inspections demonstrated that the roofing materials in the second-floor clerestory area contain 3% to 5% chrysotile asbestos, the air cell insulation from the first floor of the Facility contains 60% to 65% chrysotile asbestos, the roofing material in the debris piles located along the south wall of the first floor contain 3% to 5% chrysotile asbestos, and the dark brown aggregate and other unidentifiable debris within the debris piles located along the south wall of the first floor contain 30% to 40% chrysotile asbestos.

49. During the June 2025 Inspections, Illinois EPA observed that the construction equipment located in the Workshop Area during the May 23, 2025 Inspection was no longer in the Workshop Area or elsewhere inside of the Facility.

50. On information and belief, between April 24, 2024 and May 9, 2025, renovation activities involving asbestos occurred at the Facility.

51. Chicago DPH did not receive notice prior to the commencement of renovation activities involving asbestos at the Facility.

52. Illinois EPA did not receive notice prior to the commencement of renovation activities involving asbestos at the Facility.

53. Asbestos is a known human carcinogen, for which there is no safe level of exposure, is known to increase the risk of cancer in humans, and exposure to asbestos has been associated with adverse health effects such as lung cancer and mesothelioma. Agency for Toxic Substances

and Disease Registry, U.S. Centers for Disease Control and Prevention, ToxFAQs for Asbestos, available at [\(https://wwwn.cdc.gov/TSP/ToxFAQs/ToxFAQsDetails.aspx?faqid=29&toxid=4#:~:text=It%20is%20known%20that%20breathing,abdominal%20cavity%20\(the%20peritoneum\)\)](https://wwwn.cdc.gov/TSP/ToxFAQs/ToxFAQsDetails.aspx?faqid=29&toxid=4#:~:text=It%20is%20known%20that%20breathing,abdominal%20cavity%20(the%20peritoneum)) (last visited March 27, 2024).

54. Section 43(a) of the Act, 415 ILCS 5/43(a) (2024), provides, in pertinent part, as follows:

- (a) In circumstances of substantial danger to the environment or to the public health of persons or to the welfare of persons where such danger is to the livelihood of such persons, the State's Attorney or Attorney General, upon request of the Agency or on his own motion, may institute a civil action for an immediate injunction to halt any discharge or other activity causing or contributing to the danger or to require such other action as may be necessary. The court may issue an ex parte order and shall schedule a hearing on the matter not later than 3 working days from the date of injunction.

55. By causing or allowing renovation activity at the Facility while pipe insulation, duct insulation, pipe fittings, adhesive, floor tile and mastic, roofing, and window seals containing asbestos were present, MCC Properties and MC Construction caused or allowed the improper removal, handling, or disposal of ACM and asbestos-containing waste material ("ACWM") and thus, caused or allowed the release of asbestos fibers, a known human carcinogen, into the environment.

56. By causing or allowing renovation activity at the Facility while pipe insulation, duct insulation, pipe fittings, adhesive, floor tile and mastic, roofing, and window seals containing asbestos were present, Mr. McCarthy caused or allowed the improper removal, handling, or disposal of ACM and ACWM and thus, caused or allowed the release of asbestos fibers, a known human carcinogen, into the environment.

57. By failing to properly remove, handle, or dispose of ACM and ACWM, MCC Properties and MC Construction, by their actions or omissions as alleged herein, have caused or allowed the release of asbestos, a known human carcinogen, and created circumstances of substantial danger to the environment and the public health and welfare of Illinois' citizens, in violation of the requirements of the Act.

58. By failing to properly remove, handle, or dispose of ACM and ACWM, Mr. McCarthy, by his actions or omissions as alleged herein, has caused or allowed the release of asbestos, a known human carcinogen, and created circumstances of substantial danger to the environment and the public health and welfare of Illinois' citizens, in violation of the requirements of the Act.

59. The substantial danger to the environment and to the public health and welfare of Illinois' citizens shall continue until such time as Defendants properly remove and dispose of the ACM and ACWM and take proper measures to abate the contamination or potential contamination of asbestos throughout the Facility and surrounding environment.

60. The substantial danger alleged herein will continue or recur unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that this Court grant an immediate and preliminary injunction in favor of the People and against Defendants, MCC PROPERTIES, LLC, a Delaware limited liability company, MC CONSTRUCTION GROUP, LLC, an Illinois limited liability company, and FINTAN MCCARTHY, an individual, on this Count I, as follows:

1. Finding that Defendants have each created and maintained a substantial danger to the environment and to public health and welfare;

2. Enjoining Defendants from creating or maintaining any further substantial endangerment pursuant to Section 43(a) of the Act, 415 ILCS 5/43(a) (2024);

3. Ordering Defendants to take all necessary actions to properly address the substantial danger to the environment, and to the public health and welfare, including but not limited to removing and disposing of the ACM, hiring a licensed asbestos professional to develop a project design to remove and dispose of the ACM, and taking proper measures to abate the migration of asbestos throughout the Facility and surrounding environment, submitting to Illinois EPA a detailed summary of all asbestos removal, renovation, and/or demolition activities at the Facility within 30 days of completion, and to comply with all Federal, State, and City rules and regulations in all future renovation and/or demolition activities involving ACM;

4. Ordering Defendants, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2024), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the People in its pursuit of this action; and

5. Granting such other relief as this Court deems appropriate and just.

COUNT II

FAILURE TO ADEQUATELY WET RACM DURING RENOVATION

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of Illinois EPA, pursuant to Section 42(d) and (e) of the Act, 415 ILCS 5/42 (d) and (e) (2024).

2-53. The People re-allege and incorporate herein by reference paragraphs 2 through 53 of Count I as paragraphs 2 through 53 of this Count II.

54. Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024), provides, in pertinent part, as follows:

(d) No person shall:

(1) violate any provision of Section 111, 112, 165, or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto; . . .

55. Section 112(d)(1) of the Clean Air Act, 42 U.S.C. § 7412(d)(1), provides, in pertinent part, as follows:

The Administrator shall promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation ...

56. Subpart M of Title 40, Part 61 of the Code of Federal Regulations (“C.F.R.”) was adopted pursuant to Section 112 of the Clean Air Act as part of the National Emission Standards for Hazardous Air Pollutants (“NESHAP”) regulations. Subpart M contains the NESHAP for asbestos. The standards of 40 C.F.R. 61, Subpart M are enforceable in the State of Illinois pursuant to Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024).

57. Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141, provides, in pertinent part, the following definitions:

Adequately wet means sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.

Asbestos means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite.

Asbestos-containing waste materials means mill tailings or any waste that contains commercial asbestos and is generated by a source subject to the provisions of this subpart. This term includes filters from control devices, friable asbestos waste material, and bags or other similar packaging

contaminated with commercial asbestos. As applied to demolition and renovation operations, this term also includes regulated asbestos-containing material waste and materials contaminated with asbestos including disposable equipment and clothing.

Category I nonfriable asbestos-containing material (ACM) means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy.

Category II nonfriable asbestos-containing material (ACM) means any material, excluding Category 1 nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in Appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

Commercial asbestos means any material containing asbestos that is extracted from ore and has value because of its asbestos content.

Cutting means to penetrate with a sharp-edged instrument and includes sawing, but does not include shearing, slicing, or punching.

Demolition means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.

Facility means any . . . commercial, . . . industrial, or residential structure, installation, or building . . .

Facility component means any part of a facility including equipment.

Friable asbestos material means any material containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure . . .

Nonfriable asbestos-containing material means any material containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

Owner or operator of a demolition or renovation activity means any person who owns, leases, operates, controls, or supervises the facility being

demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

Regulated asbestos-containing material (RACM) means (a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subpart.

Remove means to take out RACM or facility components that contain or are covered with RACM from any facility.

Renovation means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions.

Strip means to take off RACM from any part of a facility or facility components.

Visible emissions means any emissions, which are visually detectable without the aid of instruments, coming from RACM or asbestos-containing waste material, or from any asbestos milling, manufacturing, or fabricating operation. This does not include condensed, uncombined water vapor.

Waste generator means any owner or operator of a source covered by this subpart whose act or process produces asbestos-containing waste material.

58. The Facility is an industrial building, and therefore is a “facility” as that term is defined in Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141.

59. The Facility contains roofing materials in the second-floor clerestory area, equating to at least 7,500 square feet of roofing materials, identified as Category I nonfriable ACM.

60. As described herein, the roofing materials in the second-floor clerestory area have been subjected to sanding, grinding, cutting, or abrading.

61. Because the roofing materials in the second-floor clerestory area have been identified as Category I nonfriable ACM and have been subjected to sanding, grinding, cutting, or

abrading, it is “regulated asbestos-containing material” (“RACM”), as that term is defined in Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141.

62. Activities at the Facility included altering the Facility by the stripping or removal of RACM from a “facility component,” and was therefore a “renovation” of the Facility as that term is defined in Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141.

63. MCC Properties is the owner of the Facility and is therefore an “owner” of a renovation activity, as that term is defined in Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141.

64. MC Construction operated, controlled, and/or supervised the renovation operations at the Facility. MC Construction is, therefore, an “operator” of a renovation activity, as that term is defined in Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141.

65. Mr. McCarthy operated, controlled, and/or supervised the renovation operations at the Facility. Mr. McCarthy is, therefore, an “operator” of a renovation activity, as that term is defined in Section 61.141 of the Asbestos NESHAP, 40 C.F.R. § 61.141.

66. Section 61.145(a)(4)(i) of the Asbestos NESHAP, 40 C.F.R. § 61.145(a)(4)(i), provides, in pertinent part, as follows:

- (a) ...The requirements of paragraphs (b) and (c) of this section apply to each owner or operator of a demolition or renovation activity, including the removal of RACM as follows:

- (4) In a facility being renovated, including any individual nonscheduled renovation operation, all the requirements of paragraphs (b) and (c) of this section apply if the combined amount of RACM to be stripped, removed, dislodged, cut, drilled, or similarly disturbed is

- (i) At least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components, ...

67. The more than 7,500 square feet of roofing material in the second-floor clerestory area subjected to renovation work at the Facility exceeds the 160 square feet of RACM necessary to establish the applicability of the Asbestos NESHAP, pursuant to Section 61.145(a)(4) of the Asbestos NESHAP, 40 C.F.R. § 61.145(a)(4).

68. The requirements of Section 61.145 of the Asbestos NESHAP, 40 C.F.R. § 61.145, apply to the renovation operations conducted at the Facility.

69. Section 61.145(c) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c), provides, in pertinent part, as follows:

- (c) Procedures for asbestos emission control. Each owner or operator of a demolition or renovation activity to whom this paragraph applies, according to paragraph (a) of this section, shall comply with the following procedures:

- (3) When RACM is stripped from a facility component while it remains in place in the facility, adequately wet the RACM during the stripping operation.

- (6) For all RACM, including material that has been removed or stripped:
 - (i) Adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal in accordance with § 61.150 . . .

70. Upon information and belief, beginning on dates better known to Defendants, MCC Properties, as owner, (a) failed to adequately wet or otherwise capture and contain RACM during

renovation activities; and (b) failed to adequately wet RACM removed or stripped at the Facility and ensure it remained wet until it could be collected and contained or treated in preparation for disposal.

71. Upon information and belief, beginning on dates better known to Defendants, MC Construction, as operator, (a) failed to adequately wet or otherwise capture and contain RACM during renovation activities; and (b) failed to adequately wet RACM removed or stripped at the Facility and ensure it remained wet until it could be collected and contained or treated in preparation for disposal.

72. Upon information and belief, beginning on dates better known to Defendants, Mr. McCarthy, as operator, (a) failed to adequately wet or otherwise capture and contain RACM during renovation activities; and (b) failed to adequately wet RACM removed or stripped at the Facility and ensure it remained wet until it could be collected and contained or treated in preparation for disposal.

73. By failing to adequately wet the RACM, and ensure that it remained wet, MCC Properties violated Section 61.145(c)(3) and (6) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c)(3) and (6), thereby violating Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024).

74. By failing to adequately wet the RACM, and ensure that it remained wet, MC Construction violated Section 61.145(c)(3) and (6) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c)(3) and (6), thereby violating Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024).

75. By failing to adequately wet the RACM, and ensure that it remained wet, Mr. McCarthy violated Section 61.145(c)(3) and (6) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c)(3) and (6), thereby violating Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024).

76. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter a preliminary injunction and, after trial, a permanent injunction, in favor of the People and against Defendants, MCC PROPERTIES, LLC, a Delaware limited liability company, MC CONSTRUCTION GROUP, LLC, an Illinois limited liability company, and FINTAN MCCARTHY, an individual, on this Count II, as follows:

1. Finding that Defendants have each violated Section 61.145(c)(3) and (6) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c)(3) and (6), and Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024);

2. Enjoining Defendants from further violations of Section 61.145(c)(3) and (6) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c)(3) and (6), and Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024);

3. Ordering Defendants to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 61.145(c)(3) and (6) of the Asbestos NESHAP, 40 C.F.R. § 61.145(c)(3) and (6), and Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024);

4. Assessing against each Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued prior to June 16, 2025;

5. Assessing against each Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a),² a civil penalty of One Hundred Thousand Dollars (\$100,000.00) for each violation of the Act that occurred after June 16, 2025, and an additional Twenty-Five Thousand Dollars (\$25,000.00) for each day during which the violations continued after June 16, 2025, with an annual increase on July 1st of each subsequent year calculated pursuant to Section 42(l) of the Act, 415 ILCS 5/42(l) (2024);

6. Ordering Defendants, pursuant to Section 42 of the Act, 415 ILCS 5/42(f) (2024), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the People in its pursuit of this action; and

7. Granting such other relief as this Court deems appropriate and just.

COUNT III **AIR POLLUTION AS TO ASBESTOS**

1-53. The People re-allege and incorporate herein by reference paragraphs 2 through 53 of Count I and paragraph 1 of Count II, as paragraphs 1 through 53 of this Count III.

54. Section 9(a) of the Act, 415 ILCS 5/9(a) (2024), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

55. Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides, in pertinent part, as follows:

² On June 16, 2025, the State of Illinois enacted Public Act 104-006, which amended Section 42(a) of the Act, 415 ILCS 5/42(a), to change the maximum penalty amounts under that section to \$100,000 per violation and \$25,000 per day each violation continues. Pub. Act 104-006 (eff. June 16, 2025), § 5-35. The amendment provides for these amounts to be increased annually based on the consumer price index. *Id.* The amendment took effect immediately. Pub. Act 104-006, § 99-99.

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter....

56. Section 3.315 of the Act, 415 ILCS 5/3.315 (2024), provides the following definition:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

57. MCC Properties, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2024).

58. MC Construction, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2024).

59. Mr. McCarthy, an individual, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2024).

60. Section 3.165 of the Act, 415 ILCS 5/3.165 (2024), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

61. Asbestos is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2024).

62. Section 3.115 of the Act, 415 ILCS 5/3.115 (2024), provides the following definition:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

63. By allowing disturbed ACM and ACWM to remain exposed at the Facility, MCC Properties and MC Construction caused or allowed the improper removal, handling, and storage of ACM and ACWM at the Facility, thereby causing, threatening, or allowing the discharge or emission of asbestos into the environment.

64. By allowing disturbed ACM and ACWM to remain exposed at the Facility, Mr. McCarthy caused or allowed the improper removal, handling, and storage of ACM and ACWM at the Facility, thereby causing, threatening, or allowing the discharge or emission of asbestos into the environment.

65. As alleged herein, MCC Properties and MC Construction caused, threatened, or allowed the release of asbestos, a contaminant, from the Facility into the atmosphere that was of a sufficient quantity and duration and of such a hazardous nature, as a known human carcinogen, that it was likely to cause injury to human and animal life and health or to unreasonably interfere with the enjoyment of life or property. The release of asbestos from the Facility into the atmosphere is, therefore, "air pollution," as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2024).

66. As alleged herein, Mr. McCarthy caused, threatened, or allowed the release of asbestos, a contaminant, from the Facility into the atmosphere that was of a sufficient quantity and duration and of such a hazardous nature, as a known human carcinogen, that it was likely to cause injury to human and animal life and health or to unreasonably interfere with the enjoyment of life or property. The release of asbestos from the Facility into the atmosphere is, therefore, "air pollution," as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2024).

67. By causing, threatening, or allowing the discharge or emission of asbestos, a contaminant, into the environment so as to cause or tend to cause air pollution, MCC Properties

and MC Construction violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2024), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

68. By causing, threatening, or allowing the discharge or emission of asbestos, a contaminant, into the environment so as to cause or tend to cause air pollution, Mr. McCarthy violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2024), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

69. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that this Court grant an immediate and preliminary injunction in favor of the People and against Defendants, MCC PROPERTIES, LLC, a Delaware limited liability company, MC CONSTRUCTION GROUP, LLC, an Illinois limited liability company, and FINTAN MCCARTHY, an individual, on this Count III, as follows:

1. Finding that Defendants have each violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2024), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

2. Enjoining Defendants from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2024), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

3. Ordering Defendants to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2024), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

4. Assessing against each Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued prior to June 16, 2025;

5. Assessing against each Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), a civil penalty of One Hundred Thousand Dollars (\$100,000) for each violation of the Act and Board regulations, that occurred after June 16, 2025, and an additional Twenty-Five Thousand Dollars (\$25,000.00) for each day during which the violations continued after June 16, 2025, with an annual increase on July 1st of each subsequent year calculated pursuant to Section 42(l) of the Act, 415 ILCS 5/42(l) (2024);

6. Ordering Defendants, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2024), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the People in its pursuit of this action; and

7. Granting such other relief as this Court deems appropriate and just.

COUNT IV
AIR POLLUTION AS TO PARTICULATE MATTER

1-61. The People re-allege and incorporate herein by reference paragraphs 2 through 53 of Count I, paragraph 1 of Count II, and paragraphs 54 through 60 and 62 of Count III, as paragraphs 1 through 61 of this Count IV.

62. Section 211.4510 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4510, provides the following definition:

“Particulate matter” means any solid or liquid material, other than water, which exists in finely divided form.

63. The Roof Piles at the Facility contain solid material that exists in finely divided form and therefore is “particulate matter” as that term is defined in Section 211.4510 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.4510.

64. Particulate matter is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2024).

65. As alleged herein, MCC Properties and MC Construction caused, threatened, or allowed the release of particulate matter, a contaminant, from the Roof Debris Piles at the Facility into the atmosphere that was of a sufficient quantity and of such characteristics and duration as to be injurious to human and animal life and health and to unreasonably interfere with the enjoyment of life or property. The release of particulate matter from the Roof Debris Piles at the Facility into the atmosphere is, therefore, “air pollution,” as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2024).

66. As alleged herein, Mr. McCarthy caused, threatened, or allowed the release of particulate matter, a contaminant, from the Roof Debris Piles on the roof of the Facility into the atmosphere that was of a sufficient quantity and of such characteristics and duration as to be injurious to human and animal life and health and to unreasonably interfere with the enjoyment of life or property. The release of particulate matter from the Roof Debris Piles on the roof of the Facility into the atmosphere is, therefore, “air pollution,” as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2024).

67. By allowing the Roof Debris Piles to remain uncovered and exposed to the elements, MCC Properties and MC Construction caused, threatened, or allowed the discharge or emission of particulate matter, a contaminant, into the environment so as to cause or tend to cause

air pollution, and therefore violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2024), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

68. By allowing the Roof Debris Piles to remain uncovered and exposed to the elements, Mr. McCarthy caused, threatened, or allowed the discharge or emission of particulate matter, a contaminant, into the environment so as to cause or tend to cause air pollution, and therefore violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2024), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

69. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that this Court grant an immediate and preliminary injunction in favor of the People and against Defendants, MCC PROPERTIES, LLC, a Delaware limited liability company, MC CONSTRUCTION GROUP, LLC, an Illinois limited liability company, and FINTAN MCCARTHY, an individual, on this Count IV, as follows:

1. Finding that Defendants have each violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2024), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;
2. Enjoining Defendants from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2024), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

3. Ordering Defendants to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2024), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

4. Assessing against each Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board regulations that occurred prior to June 16, 2025, and an additional Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued prior to June 16, 2025;

5. Assessing against each Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), a civil penalty of One Hundred Thousand Dollars (\$100,000) for each violation of the Act and Board regulations, that occurred after June 16, 2025, and an additional Twenty-Five Thousand Dollars (\$25,000.00) for each day during which the violations continued after June 16, 2025, with an annual increase on July 1st of each subsequent year calculated pursuant to Section 42(l) of the Act, 415 ILCS 5/42(l) (2024);

6. Ordering Defendants, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2024), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the People in its pursuit of this action; and

7. Granting such other relief as this Court deems appropriate and just.

COUNT V
FAILURE TO PROPERLY DISPOSE OF
ASBESTOS-CONTAINING WASTE MATERIAL

1–68. The People re-allege and incorporate by reference herein paragraphs 2 through 53 of Count I and paragraphs 1 and 54 through 68 of Count II, as paragraphs 1 through 68 of this Count V.

69. Section 61.150 of the Asbestos NESHAP, 40 C.F.R. § 61.150, provides, in pertinent part, as follows:

Each owner or operator of any source covered under the provisions of §§ 61.144, 61.145, 61.146, and 61.147 shall comply with the following provisions:

- (a) Discharge no visible emissions to the outside air during the collection, processing (including incineration), packaging, or transporting of any asbestos-containing waste material generated by the source, or use one of the emission control and waste treatment methods specified in paragraph (a) (1) through (4) of this section.
 - (1) Adequately wet asbestos-containing waste material as follows:
 - (i) Mix control device asbestos waste to form a slurry; adequately wet other asbestos-containing waste material; and
 - (ii) Discharge no visible emissions to the outside air from collection, mixing, wetting, and handling operations, or use the methods specified by §61.152 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air; and
 - (iii) After wetting, seal all asbestos-containing waste material in leak-tight containers while wet; or, for materials that will not fit into containers without additional breaking, put materials into leak-tight wrapping; and
 - (iv) Label the containers or wrapped materials specified in paragraph (a)(1)(iii) of this section using warning labels specified by Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 CFR 1910.1001(j)(4) or 1926.1101(k)(8). The labels shall be printed in letters of sufficient size and contrast so as to be readily visible and legible.
 - (v) For asbestos-containing waste material to be transported off the facility site, label containers or wrapped materials with the name of the waste

generator and the location at which the waste was generated.

- (2) Process asbestos-containing waste material into nonfriable forms as follows:
 - (i) Form all asbestos-containing waste material into nonfriable pellets or other shapes;
 - (ii) Discharge no visible emissions to the outside air from collection and processing operations, including incineration, or use the method specified by § 61.152 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

- (b) All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at:
 - (1) A waste disposal site operated in accordance with the provisions of § 61.154, or
 - (2) An EPA-approved site that converts RACM and asbestos-containing waste material into nonasbestos (asbestos-free) material according to the provisions of § 61.155.

70. Upon information and belief, on dates better known to Defendants, MCC Properties, as owner, (a) failed to adequately wet and seal ACWM in leak-tight containers or leak-tight wrapping; (b) failed to label the containers with letters of sufficient size and contrast so as to be readily visible and legible; (c) failed to label the containers with the name of the waste generator and location where the waste was generated; and (d) failed to properly deposit all ACWM as soon as was practical.

71. Upon information and belief, on dates better known to Defendants, MC Construction, as operator, (a) failed to adequately wet and seal ACWM in leak-tight containers or leak-tight wrapping; (b) failed to label the containers with letters of sufficient size and contrast so as to be readily visible and legible; (c) failed to label the containers with the name of the waste

generator and location where the waste was generated; and (d) failed to properly deposit all ACWM as soon as was practical.

72. Upon information and belief, on dates better known to Defendants, Mr. McCarthy, as operator, (a) failed to adequately wet and seal ACWM in leak-tight containers or leak-tight wrapping; (b) failed to label the containers with letters of sufficient size and contrast so as to be readily visible and legible; (c) failed to label the containers with the name of the waste generator and location where the waste was generated; and (d) failed to properly deposit all ACWM as soon as was practical.

73. By (a) failing to adequately wet and seal ACWM in leak-tight containers or leak-tight wrapping; (b) failing to label the containers with letters of sufficient size and contrast so as to be readily visible and legible; (c) failing to label the containers with the name of the waste generator and location where the waste was generated; and (d) failing to properly deposit all ACWM as soon as was practical, MCC Properties, as owner, violated Sections 61.150(a)(1) and (2) and (b)(1) and (2) of the Asbestos NESHAP, 40 C.F.R. § 61.150(a)(1) and (2) and (b)(1) and (2) and thereby violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024).

74. By (a) failing to adequately wet and seal ACWM in leak-tight containers or leak-tight wrapping; (b) failing to label the containers with letters of sufficient size and contrast so as to be readily visible and legible; (c) failing to label the containers with the name of the waste generator and location where the waste was generated; and (d) failing to properly deposit all ACWM as soon as was practical, MC Construction, as operator, violated Sections 61.150(a)(1) and (2) and (b)(1) and (2) of the Asbestos NESHAP, 40 C.F.R. § 61.150(a)(1) and (2) and (b)(1) and (2), and thereby violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024).

75. By (a) failing to adequately wet and seal ACWM in leak-tight containers or leak-tight wrapping; (b) failing to label the containers with letters of sufficient size and contrast so as to be readily visible and legible; (c) failing to label the containers with the name of the waste generator and location where the waste was generated; and (d) failing to properly deposit all ACWM as soon as was practical, Mr. McCarthy, as operator, violated Sections 61.150(a)(1) and (2) and (b)(1) and (2) of the Asbestos NESHAP, 40 C.F.R. § 61.150(a)(1) and (2) and (b)(1) and (2), and thereby violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024).

76. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter an immediate and preliminary injunction and, after trial, a permanent injunction, in favor of the People and against Defendants, MCC PROPERTIES, LLC, a Delaware limited liability company, MC CONSTRUCTION GROUP, LLC, an Illinois limited liability company, and FINTAN MCCARTHY, an individual, on this Count V, as follows:

1. Finding that Defendants have each violated Sections 61.150(a)(1) and (2) and (b)(1) and (2) of the Asbestos NESHAP, 40 C.F.R. § 61.150(a)(1) and (2) and (b)(1) and (2), and Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024);
2. Enjoining Defendants from further violations of Sections 61.150(a)(1) and (2) and (b)(1) and (2) of the Asbestos NESHAP, 40 C.F.R. § 61.150(a)(1) and (2) and (b)(1) and (2), and Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024);

3. Ordering Defendants to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Sections 61.150(a)(1) and (2) and (b)(1) and (2) of the Asbestos NESHAP, 40 C.F.R. § 61.150(a)(1) and (2) and (b)(1) and (2), and Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024);

4. Assessing against each Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act that occurred prior to June 16, 2025, and an additional civil penalty of up to Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued prior to June 16, 2025;

5. Assessing against each Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a), a civil penalty of One Hundred Thousand Dollars (\$100,000.00) for each violation of the Act that occurred after June 16, 2025, and an additional Twenty-Five Thousand Dollars (\$25,000.00) for each day during which the violations continued after June 16, 2025, with an annual increase on July 1st of each subsequent year calculated pursuant to Section 42(l) of the Act, 415 ILCS 5/42(l);

6. Ordering Defendants, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2024), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the People in its pursuit of this action; and

7. Granting such other relief as this Court deems appropriate and just.

COUNT VI
FAILURE TO PROVIDE WRITTEN NOTICE OF RENOVATION
PRIOR TO RENOVATION ACTIVITIES

1-65. The People re-allege and incorporate by reference herein paragraphs 2 through 53 of Count I, paragraphs 1 and 57 through 68 of Count II, as paragraphs 1 through 65 of this Count VI.

66. Section 9.13(a) and (b) of the Act, 415 ILCS 5/9.13(a) and (b) (2024), provides as follows:

- (a) For any site for which the owner or operator must file an original 10-day notice of intent to renovate or demolish pursuant to 40 CFR 61.145(b) (part of the federal asbestos National Emission Standard for Hazardous Air Pollutants or NESHAP), the owner or operator shall pay to the Agency with the filing of each 10-day Notice a fee of \$150.
- (b) If demolition or renovation of a site has commenced without proper filing of the 10-day Notice, the fee is double the amount otherwise due. This doubling of the fee is in addition to any other penalties under this Act, the federal NESHAP, or otherwise, and does not preclude the Agency, the Attorney General, or other authorized persons from pursuing an enforcement action against the owner or operator for failure to file a 10-day Notice prior to commencing demolition or renovation activities.

67. Section 61.145(b) of the Asbestos NESHAP, 40 C.F.R. § 61.145(b), provides, in pertinent part, as follows:

- (b) Each owner or operator of a demolition or renovation activity to which this section applies shall:
 - (1) Provide the Administrator with written notice of intention to demolish or renovate.

- (3) Postmark or deliver the notice as follows:
 - (i) At least 10 working days before asbestos stripping or removal work or any other activity begins (such as site preparation that would break up, dislodge or similarly disturb asbestos material), if the operation is described in paragraphs (a) (1) and (4) (except (a)(4)(iii) and (a)(4)(iv)) of this section. . .

68. MCC Properties, as owner, failed to tender the requisite asbestos notification fee prior to commencing renovation activities at the Facility.

69. MC Construction, as operator, failed to tender the requisite asbestos notification fee prior to commencing renovation activities at the Facility.

70. Mr. McCarthy, as operator, failed to tender the requisite asbestos notification fee prior to commencing renovation activities at the Facility.

71. MCC Properties, as owner, failed to provide a properly completed written notice of renovation at least ten working days before commencing the renovation activities at the Facility.

72. MC Construction, as operator, failed to provide a properly completed written notice of renovation at least ten working days before commencing the renovation activities at the Facility.

73. Mr. McCarthy, as operator, failed to provide a properly completed written notice of renovation at least ten working days before commencing the renovation activities at the Facility.

74. By failing to tender the requisite asbestos notification fee prior to beginning renovation activities, MCC Properties, as owner, violated Section 9.13(a) of the Act, 415 ILCS 5/9.13(a) (2024), and also failed to pay the fee required by Section 9.13(b) of the Act, 415 ILCS 5/9.13(b) (2024).

75. By failing to tender the requisite asbestos notification fee prior to beginning renovation activities, MC Construction, as operator, violated Section 9.13(a) of the Act, 415 ILCS 5/9.13(a) (2024), and also failed to pay the fee required by Section 9.13(b) of the Act, 415 ILCS 5/9.13(b) (2024).

76. By failing to tender the requisite asbestos notification fee prior to beginning renovation activities, Mr. McCarthy, as operator, violated Section 9.13(a) of the Act, 415 ILCS 5/9.13(a) (2024), and also failed to pay the fee required by Section 9.13(b) of the Act, 415 ILCS 5/9.13(b) (2024).

77. By failing to tender the properly completed written notice of renovation at least ten (10) working days before commencing work, MCC Properties, as owner, violated Section 61.145(b) of the Asbestos NESHAP, 40 C.F.R. § 61.145(b), and thereby violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024).

78. By failing to tender the properly completed written notice of renovation at least ten (10) working days before commencing work, MC Construction, as operator, violated Section 61.145(b) of the Asbestos NESHAP, 40 C.F.R. § 61.145(b), and thereby violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024).

79. By failing to tender the properly completed written notice of renovation at least ten working days before commencing work, Mr. McCarthy, as operator, violated Section 61.145(b) of the Asbestos NESHAP, 40 C.F.R. § 61.145(b), and thereby violated Section 9.1 (d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2024).

80. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an immediate and preliminary injunction and, after trial, a permanent injunction, in favor of the People and against Defendants, MCC PROPERTIES, LLC, a Delaware limited liability company, MC CONSTRUCTION GROUP, LLC, an Illinois limited liability company, and FINTAN MCCARTHY, an individual, on this Count VI, as follows:

1. Finding that Defendants have each violated Section 61.145(b) of the Asbestos NESHAP, 40 C.F.R. § 61.145(b), Sections 9.13(a) and 9.1(d)(1) of the Act, 415 ILCS 5/9.13(a) and 9.1(d)(1) (2024);

2. Enjoining Defendants from further violations of Section 61.145(b) of the Asbestos NESHAP, 40 C.F.R. § 61.145(b), Sections 9.13(a) and 9.1(d)(1) of the Act, 415 ILCS 5/9.13(a) and 9.1(d)(1) (2024);

3. Ordering Defendants to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 61.145(b) of the Asbestos NESHAP, 40 C.F.R. § 61.145(b), and Sections 9.13(a) and 9.1(d)(1) of the Act, 415 ILCS 5/9.13(a) and 9.1(d)(1) (2024), including but not limited to paying the \$300 asbestos renovation notice fee to Illinois EPA;

4. Assessing against each Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2024), a civil penalty of up to Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and an additional civil penalty of up to Ten Thousand Dollars (\$10,000.00) for each day of each violation that continued prior to June 16, 2025;

5. Assessing against each Defendant, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a), a civil penalty of One Hundred Thousand Dollars (\$100,000.00) for each violation of the Act that occurred after June 16, 2025, and an additional Twenty-Five Thousand Dollars (\$25,000.00) for each day during which the violations continued after June 16, 2025, with an annual increase on July 1st of each subsequent year calculated pursuant to Section 42(l) of the Act, 415 ILCS 5/42(l) (2024);

6. Ordering Defendants, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2024), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the People in its pursuit of this action; and

7. Granting such other relief as this Court deems appropriate and just.

COUNTS BROUGHT BY THE CITY OF CHICAGO

COUNT VII

FAILURE TO MAINTAIN ASBESTOS-CONTAINING MATERIAL
(Municipal Code of Chicago, § 11-4-2180)

1. The City of Chicago (“City”) seeks injunctive relief, civil penalties, cost recovery, and attorneys’ fees arising from Defendants’ violations of the Municipal Code of Chicago (“the Code”) concerning asbestos at the Facility beginning in or about April 2024 continuing through the present day. The City has incurred significant costs to provide inspection and response services reasonably related to Defendants’ violations of federal, state, or local law and failure to correct conditions that violate federal, state, or local law when such Defendants were under a legal duty to do so.

2. The City is a municipal corporation incorporated under the laws of the State of Illinois and, under Article VII of the Illinois Constitution, the City, as a home rule unit, has the authority to regulate environmental matters.

3-96. The City re-alleges and incorporates as if fully stated and alleged herein paragraphs 2 through 53 of Count I, paragraphs 54 through 72 of Count II, paragraphs 63 through 66 of Count III, paragraphs 62 through 68 of Count IV, paragraphs 69 through 72 of Count V, and paragraphs 67, 71-73, and 77-79 of Count VI, as paragraphs 3 through 96 of this Count VII.

97. Chapter 11-4, Article XVIII, Section 11-4-2150(a) of the Code, entitled “Asbestos, Sandblasting, and Grinding Standards,” states as follows:

Intent and purpose. Many buildings, facilities or other structures within the city have been constructed or decorated in part with materials, including but not limited to, asbestos containing materials or lead paint, that can pose hazards to the public health or the environment if those materials are not adequately and appropriately handled and controlled during demolition, renovation, alteration, repair, cleaning or maintenance activities. The purpose of this article is to reduce the potential risk of harm to the public's health, safety and welfare or to the environment from releases of dust, debris and other materials occasioned by the demolition, renovation, alteration, repair, cleaning or maintenance of certain types of buildings, facilities or other structures within the City of Chicago.

98. Chapter 11-4, Article XVIII, Section 11-4-2150(b) of the Code defines “ACM” or “asbestos containing material,” as follows:

any material or product that contains more than one percent asbestos as determined by weight or volume, or by using the methods specified in Title 40, Part 763, Subpart E, Appendix E, Section 1 of the Code of Federal Regulations (C.F.R.), or test method EPA-600/M4-82-020, or other analytical method acceptable to the commissioner. It also means any material contaminated with particles, fibers, or dust from asbestos containing material.

99. Chapter 11-4, Article XVIII, Section 11-4-2150(b) of the Code defines “damaged friable ACM” as:

friable ACM which: (i) has deteriorated or sustained physical injury such that the internal structure (cohesion) of the material is inadequate; (ii) has delaminated such that its bond to the substrate (adhesion) is inadequate; (iii) for any other reason lacks fiber cohesion or adhesion qualities; (iv) has lost its structural integrity; or (v) is, in whole or in part, crushed, water-stained, gouged, punctured, missing or not intact such that it is not able to contain fibers. Such damage or deterioration may be illustrated by the separation of the ACM into layers; separation of the ACM from the substrate exposed ACM ends or joints; flaking, blistering, or crumbling of the ACM surface; water damage; significant or repeated water stains, scrapes, gouges, punctures, mars or other signs of physical injury to the ACM.

100. Chapter 11-4, Article XVIII, Section 11-4-2150(b) of the Code defines ACM “in poor condition” to mean “ACM in which the binding of the material is losing or has lost its integrity as indicated by peeling, cracking or crumbling of the material.”

101. Chapter 11-4, Article XVIII, Section 11-4-2150(b) of the Code defines “asbestos abatement” as “any form of work performed in connection with the demolition, renovation,

alteration, modification, repair, cleaning or maintenance of a facility that involves the encapsulation, enclosure, repair, removal or disturbance of ACM.”

102. Chapter 11-4, Article XVIII, Section 11-4-2150(b) of the Code defines “facility” to include “interior space of any institutional, commercial, public, industrial or residential structure, installation, or building[.]”

103. Chapter 11-4, Article XVIII, Section 11-4-2150(b) of the Code defines “building” to include “a structure, or part thereof, enclosing any occupancy including residential, institutional, assembly, business, mercantile, industrial, storage, hazardous and miscellaneous uses.”

104. Pursuant to Chapter 11-4, Article XVIII, Section 11-4-2150(b) of the Code, MCC Properties’ Facility is a “building,” and its interior space is a “facility.”

105. Chapter 11-4, Article XVIII, Section 11-4-2150(b) of the Code defines “person” as follows: “Person means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name or any other entity.”

106. Chapter 11-4, Article XVIII, Section 11-4-2150(b) of the Code defines “owner or operator” as:

(1) any person who owns, leases, operates, controls, manages or supervises any building, facility or other structure (or any portion thereof); or (2) any person who is performing or has performed any activity regulated under this article at any facility, building or other structure, or both. The term ‘owner or operator’ includes, but is not limited to, any person having legal title to any building, facility or other structure (or any portion thereof), with or without accompanying actual possession thereof.

107. Chapter 11-4, Article XVIII, Code Section 11-4-2200(b) provides as follows:

Owners and contractors; joint and several responsibility. The owner(s) of any building, facility, structure, statue, or other architectural surface shall be jointly and severally liable with any contractor or other person retained or otherwise authorized by such owner(s) to perform any demolition, renovation, sandblasting, grinding, or chemical washing activity for any violation of this article caused by the action or inaction of any contractor or other person retained or otherwise authorized by the owner(s).

108. Chapter 11-4, Article XVIII, Section 11-4-2150(b) of the Code defines “renovation” as follows, in relevant part:

Renovation means the altering, modifying, or repairing of a facility or one or more facility components in any way, including the stripping or removal of hazardous ACM from a facility component.

109. Chapter 11-4, Article XVIII, Section 11-4-2150(b) of the Code defines “hazardous ACM” as follows:

any ACM which either: (1) is friable; (2) was nonfriable, but which has become friable; (3) is nonfriable, but will be subjected to sanding, grinding, cutting or abrading; or (4) is nonfriable, but which is more likely than not to become crumbled, pulverized or reduced to powder by forces expected to act on the material in the course of a demolition, renovation, alteration, modification, repair, improvement or maintenance activity.

110. Chapter 11-4, Article XVIII, Section 11-4-2150(b) of the Code provides as follows:

Grind or grinding means to reduce matter, including but not limited to brick, mortar or concrete, to powder or small fragments by mechanical means including rubbing, abrading, chipping, drilling, crushing or pulverizing. The term "grind" or "grinding" includes, but is not limited to, the removal of joints in a preparation for tuckpointing.

111. At all times relevant to the Counts brought by the City, MCC Properties’ Facility is a “building,” and its interior space is a “facility,” as defined in the Code.

112. At all times relevant to the Counts brought by the City, MCC Properties was an owner of the Facility, as defined in the Code, including because its name is listed as the owner of record of the Facility by Special Warranty Deed on file at the Cook County Clerk’s Office.

113. At all times relevant to the Counts brought by the City, upon information and belief, MC Construction was an operator of the Facility, as defined in the Code, in part demonstrated by its trucks being used for activities described in the Complaint.

114. At all times relevant to the Counts brought by the City, upon information and belief, MC Construction was a contractor or a person retained or otherwise authorized by MCC Properties as its contractor to perform demolition, renovation, and/or grinding activities.

115. At all times relevant to the Counts brought by the City, upon information and belief, Mr. McCarthy was an operator of the Facility, as defined in the Code.

116. At all times relevant to the Counts brought by the City, upon information and belief, Mr. McCarthy was a contractor or a person retained or otherwise authorized by MCC Properties as its contractor to perform demolition, renovation, and/or grinding activities.

117. On or about May 7, 2024, Chicago DPH was informed by Axis that samples of material taken by Axis from the Facility contained asbestos.

118. On May 31, 2024, Chicago DPH was informed by the owner of Axis that the Axis owner had recently met with Mr. McCarthy at the Facility and, while there, workers not retained by Axis were positioned on personnel lifts removing asbestos-containing pipe insulation from overhead pipes at the Facility.

119. Upon hearing the report from the Axis owner regarding workers removing ACM from overhead pipes at the Facility, on May 31, 2024, Chicago DPH informed the United States Occupational Safety and Health Administration (“OSHA”) of the asbestos removal activities.

120. On June 4, 2024, OSHA informed an attorney for MCC Properties, MC Construction, and Mr. McCarthy that OSHA was investigating a referral from the City of Chicago alleging that work occurring at the Facility is exposing employees to asbestos-containing material and that OSHA expected that Mr. McCarthy and MC Construction provide information regarding the presence, location, and quantity of asbestos-containing material at the Facility, the work currently being done at the Facility, and who was conducting the work.

121. On June 6, 2024, the owner of Axis told Chicago DPH that he had met with Mr. McCarthy on June 5, 2024, the Axis owner had provided to Mr. McCarthy Axis's file regarding asbestos assessment of the Facility, and that Mr. McCarthy had told the Axis owner that he would not retain Axis for any further work at the Facility.

122. On June 12, 2024, an attorney for Defendants informed OSHA that "there is no work in progress at the subject property. The city requested that the owner undertake some emergency removal of the exterior parapet walls to remove falling or would be falling face brick. There are no permits pending or approved for any work inside the property. My client is working on engaging contractors for a proper assessment. There is no further information at this time."

123. At no time on or after June 12, 2024, was Chicago DPH notified by any representative of the Defendants that work involving asbestos abatement or renovation activities that could disturb asbestos was being performed at the Facility.

124. In response to evidence of work in the Facility's interior in early April 2025, Chicago DPH, Chicago Fire Department, and Chicago Department of Buildings communicated with Mr. McCarthy to schedule an inspection of the Facility's interior. Mr. McCarthy agreed to allow the Facility to be inspected on April 24, 2025, but the date for the inspection was postponed to May 6, 2025, in response to a request from Defendants' attorney.

125. On April 25, 2025, the Chicago DPH Commissioner issued Cease and Desist and Abatement Orders ("First CDPH Order"), attached hereto as Exhibit A, to Mr. McCarthy and MC Construction. The First CDPH Order was sent by email by Chicago DPH's counsel to the attorney for Mr. McCarthy and MC Construction on Friday, April 25, 2025, and was personally delivered to the attorney for Mr. McCarthy and MC Construction on Monday, April 28, 2025. The First CDPH Order was taped onto the exterior of the Facility's doors beginning on April 28, 2025.

126. On April 28, 2025, the Chicago DPH Commissioner issued Cease and Desist and Abatement Orders (“Second CDPH Order”), attached hereto as Exhibit B, to MCC Properties. The Second CDPH Order was sent by email Chicago DPH’s counsel to the attorney for MCC Properties on Tuesday, April 29, 2025, and was personally delivered to the attorney for MCC Properties on Wednesday, April 30, 2025. The Second CDPH Order was taped onto the exterior of the Facility’s doors beginning on April 29, 2025.

127. The First CDPH Order and the Second CDPH Order (collectively, “the CDPH Orders”) found that Defendants:

are causing and creating conditions that pose an imminent and substantial risk to the public health, safety, or the environment at and from the Facility identified above, specifically: imminent and substantial threats of exposure to asbestos, a known human carcinogen, asbestos-containing material (ACM), and asbestos-containing waste (ACW) and/or release of asbestos, ACM, and ACW into the environment, and/or failure to adequately and appropriately handle and control asbestos, ACM, and ACW during demolition, renovation, alteration, repair, cleaning or maintenance activities, as further specified in Article XVIII of the Municipal Code of Chicago (Code).

128. The CDPH Orders ordered Defendants to immediately cease and desist from:

any demolition, renovation, alteration, debris removal, adding new debris or other material, handling existing stockpiles, reprocessing or recycling material, repair, cleaning or maintenance activities at or from the Facility unless and until written documentation has been submitted, and approved in writing by the Commissioner, demonstrating that an Illinois-licensed asbestos inspector has (a) thoroughly and appropriately inspected the Facility to the Commissioner’s satisfaction, and (b) certified that there is no asbestos, ACM, or ACW present at the Facility, including within the ambient air within the Facility.

129. Defendants did not seek a hearing within 14 days of service of the CDPH Orders upon them, thereby waiving the opportunity for a hearing pursuant to Section 11-4-025(b)(6) of the Code.

130. Despite the Chicago DPH Commissioner's issuance of the Orders to Defendants, Defendants continued to handle debris piles and conduct other activities prohibited by the Orders after the CDPH Orders had been served and posted at the Facility.

131. Section 11-4-2180(a) of the Code provides as follows: "The owner or operator of any facility shall maintain the facility's ACM at all times so that there is no damaged friable asbestos or ACM in poor condition at, on or within the facility."

132. On April 24, 2024, and thereafter, the Facility contained damaged friable asbestos and ACM in poor condition, as those terms are defined in Code Section 11-4-2150(b).

133. As owner of the Facility, MCC Properties violated Code Section 11-4-2180(a) beginning on at least April 24, 2024, by failing to maintain the ACM at the Facility so that there was no damaged friable asbestos or ACM in poor condition at and within the Facility.

134. As operator of the Facility, MC Construction violated Code Section 11-4-2180(a) beginning on at least April 24, 2024, by failing to maintain the ACM at the Facility so that there was no damaged friable asbestos or ACM in poor condition at and within the Facility.

135. As operator of the Facility, Mr. McCarthy violated Code Section 11-4-2180(a) beginning on at least April 24, 2024, by failing to maintain the ACM at the Facility so that there was no damaged friable asbestos or ACM in poor condition at and within the Facility.

136. Section 11-4-2200 of the Code states that any person found to have violated Code Section 11-4-2180(a) at a non-residential facility is subject to a civil penalty of not less than \$2,000 and not more than \$5,000. Each day on which a violation continues constitutes a separate violation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, CITY OF CHICAGO, respectfully requests that this Court grant an immediate and preliminary injunction and, after trial, a permanent injunction and judgment in favor of Plaintiff, CITY OF CHICAGO, and against Defendants, MCC PROPERTIES, LLC, a Delaware limited liability company, MC CONSTRUCTION GROUP, LLC, an Illinois limited liability company, and FINTAN MCCARTHY, an individual, on this Count VII, as follows:

1. Finding that Defendants have each violated Code Section 11-4-2180(a);
2. Enjoining Defendants from committing any further violations of Code Section 11-4-2180(a);
3. Ordering Defendants to take all necessary actions to abate the damaged friable asbestos and ACM in poor condition at and within the Facility in accordance with all applicable law;
4. Assessing civil penalties of not less than \$2,000 and not more than \$5,000, as provided by Code Section 11-4-2200, for each day of each Defendant's violation of Code Section 11-4-2180(a);
5. Assessing all the City's costs against Defendants, including pursuant to Chapter 1-20 of the Code, and attorney, expert witness, and consultant fees expended by the City in its pursuit of an injunction action; and
6. Granting such other relief as this Court deems appropriate and just.

COUNT VIII **FAILURE TO COMPLY WITH ASBESTOS ABATEMENT PROCEDURES** **(Municipal Code of Chicago, § 11-4-2170(e)(2))**

1-132. The City realleges and incorporates as if fully stated and alleged herein paragraphs 1 through 132 of Count VII above, as paragraphs 1 through 132 of this Count VIII.

133. Section 11-4-2170(e)(2) of the Code provides as follows:

Any asbestos abatement performed in connection with any facility within the City of Chicago shall be performed in accordance with the rules and regulations for asbestos abatement established by the State of Illinois in Title 77, Part 855, Subparts C and D of the Illinois Administrative Code, as they may be amended from time to time, which regulations are adopted and incorporated by reference and made a part of this section as if fully set forth herein.

134. Upon information and belief, MCC Properties performed or authorized one or more of its contractors to perform asbestos abatement at the Facility beginning on or about May 31, 2024, and on dates better known to Defendants.

135. Upon information and belief, MC Construction performed or authorized one or more of its contractors to perform asbestos abatement at the Facility beginning on or about May 31, 2024, and on dates better known to Defendants.

136. Upon information and belief, Mr. McCarthy performed or authorized one or more of his contractors to perform asbestos abatement at the Facility beginning on or about May 31, 2024, and on dates better known to Defendants.

137. Upon information and belief, the asbestos abatement performed by MCC Properties, MC Construction, Mr. McCarthy, or their contractors beginning on or about May 31, 2024, and on dates better known to Defendants, was not performed in compliance with the rules and regulations for asbestos abatement established by the State of Illinois in Title 77, Part 855, Subparts C and D, as adopted by Code Section 11-4-2170(e)(2), including because Illinois requirements for reestablishment of the work area following completion of other asbestos abatement activities, as required by 77 Illinois Administrative Code, Section 855.240, were not followed, in that remaining visible residue ACM was found in the Facility on May 6, 2025 and thereafter.

138. Each Defendant violated Code Section 11-4-2170(e)(2) from on or about May 31, 2024, and on dates better known by Defendants, by not conducting asbestos abatement at the

Facility in accordance with the rules and regulations established by the State of Illinois in Title 77, Part 855, Subparts C and D of the Illinois Administrative Code.

139. Section 11-4-2200 of the Code states that any person found to have violated Code Section 11-4-2170(e)(2) at a non-residential facility is punishable by a civil penalty of not less than \$5,000 and not more than \$10,000. Each day on which a violation continues constitutes a separate violation.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff, CITY OF CHICAGO, respectfully requests that this Court grant an immediate and preliminary injunction and, after trial, a permanent injunction and judgment in favor of Plaintiff, CITY OF CHICAGO, and against Defendants, MCC PROPERTIES, LLC, a Delaware limited liability company, MC CONSTRUCTION GROUP, LLC, an Illinois limited liability company, and FINTAN MCCARTHY, an individual, on this Count VIII, as follows:

1. Finding that Defendants have each violated Code Section 11-4-2170(e)(2);
2. Enjoining Defendants from committing any further violations of Code Section 11-4-2170(e)(2);
3. Ordering Defendants to take all necessary actions to abate the ACM in the Facility in accordance with the rules and regulations established by the State of Illinois in Title 77, Part 855, Subparts C and D of the Illinois Administrative Code, and all other laws;
4. Assessing civil penalties of not less than \$5,000 and not more than \$10,000, as provided by Code Section 11-4-2200, for each day of each Defendant's violation of Code Section 11-4-2170(e)(2);

5. Assessing all the City's costs against Defendants, including pursuant to Chapter 1-20 of the Code, and attorney, expert witness, and consultant fees expended by the City in its pursuit of an injunction action; and

6. Granting such other relief as this Court deems appropriate and just.

COUNT IX
FAILURE TO PROVIDE NOTIFICATION OF ABATEMENT and
ENVIRONMENTAL REVIEW FEE PAYMENT
(Municipal Code of Chicago, §§ 11-4-2170(e)(3),(g),(i))

1-137. The City re-alleges and incorporates as if fully stated and alleged herein paragraphs 1 through 137 of Count VIII above, as paragraphs 1 through 137 of this Count IX.

138. Code Section 11-4-2170(e)(3) provides as follows, in relevant part:

Notification required: Any person performing asbestos abatement at any facility within the city shall provide the [Department of Public Health] department with notice of the abatement by submitting the following forms at least 10 working days prior to the commencement of the abatement and such notice shall be accompanied by the environmental review fee required by this section: (i) a fully completed copy of the asbestos abatement notification form prescribed by the commissioner [of the Department of Public Health]...

139. Code Section 11-4-2170(i) provides as follows:

Notifications – Method Of Submittal: Notifications required by this section to be submitted to the city shall be made through the City's on-line permit portal as designated in rules.

140. Code Section 11-4-2170(g) provides that the environmental review fee for a non-residential structure is \$600.00.

141. Although Defendants MCC Properties, MC Construction, and McCarthy commenced asbestos abatement activities on or about May 31, 2024, and conducted asbestos abatement activities thereafter on dates better known by Defendants, none of Defendants provided notice to Chicago DPH on the required form or otherwise, through the City's on-line permit portal

or otherwise, or paid the environmental review fee of \$600.00, before commencing such asbestos abatement activities or thereafter.

142. Defendants MCC Properties, MC Construction, and McCarthy each individually violated Code Sections 11-4-2170(e)(3), 11-4-2170(g), and 11-4-2170(i) and such violation continues.

143. Section 11-4-2200 of the Code states that any person found to have violated Code Section 11-4-2170(e)(3) at a non-residential facility is punishable by a fine of not less than \$5,000 and not more than \$10,000. Each day on which a violation continues constitutes a separate violation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, CITY OF CHICAGO, respectfully requests that this Court grant an immediate and preliminary injunction and, after trial, a permanent injunction and judgment in favor of Plaintiff, CITY OF CHICAGO, and against Defendants, MCC PROPERTIES, LLC, a Delaware limited liability company, MC CONSTRUCTION GROUP, LLC, an Illinois limited liability company, and FINTAN MCCARTHY, an individual, on this Count IX, as follows:

1. Finding that Defendants have each violated Code Sections 11-4-2170(e)(3), 11-4-2170(g), and 11-4-2170(i);
2. Enjoining Defendants from committing any further violations of Code Sections 11-4-2170(e)(3), 11-4-2170(g), and 11-4-2170(i);
3. Ordering Defendants to take provide all required notices and pay all required fees prior to beginning any further asbestos abatement activities at the Facility;

4. Assessing civil penalties of not less than \$5,000 and not more than \$10,000, as provided by Code Section 11-4-2200, for each day of each Defendant's violation of Code Section 11-4-2170(e)(3);

5. Requiring Defendants to pay the required environmental review fee;

6. Assessing all the City's costs against Defendants, including pursuant to Chapter 1-20 of the Code, and attorney, expert witness, and consultant fees expended by the City in its pursuit of an injunction action; and

7. Granting such other relief as this Court deems appropriate and just.

COUNT X
FAILURE TO COMPLY WITH EMERGENCY ORDERS
(Municipal Code of Chicago, § 11-4-025)

1-142. The City re-alleges and incorporates as if fully stated and alleged herein paragraphs 1 through 142 of Count IX above, as paragraphs 1 through 142 of this Count X.

143. Section 11-4-025(a)(1) of the Code defines "imminent and substantial risk to the public health or safety or to the environment" as follows:

"imminent and substantial risk to the public health or safety or to the environment" shall include a threat to human health or safety or to the environment that is expected to occur within a reasonably short time, or that is present now, although the impact of the threat may not be felt until later.

144. Section 11-4-025(a)(2) of the Code defines "cease or desist" as follows:

"cease and desist" or "cessation" shall mean stopping or suspension or bringing an end to a particular course of action or conduct, including but not limited to the closure of any business or part of any business or the closure or dismantling of any equipment.

145. Section 11-4-025(b)(1) of the Code gives the Commissioner of Public Health the authority to:

issue an emergency cessation order to any person who the Commissioner concludes is (i) causing, creating or contributing to any activity or condition that poses an imminent and substantial risk to the public health or safety or to the environment;

or (ii) operating a facility or conducting an activity without a required permit or other written authorization issued by the Commissioner.

146. Pursuant to section 11-4-025(b)(1) of the Code, upon service of an order pursuant to Section 11-4-025(b) of the Code:

the person to whom the order is issued shall immediately comply with the requirements of the order. The duty to comply with such order shall arise at the moment of service of the order and shall continue until the time of cancellation, if any, of such order by the Commissioner, or until the order automatically expires in accordance with subsection (b)(9) of this section. Submittal of a demand for hearing as set out in subsection (b)(6) of this section shall not relieve any person of the duty to comply with the order issued by the Commissioner.

147. Defendant MCC Properties, MC Construction, and Mr. McCarthy violated Code Section 11-4-025(b)(1) on at least April 30, May 1, May 2, and May 5, 2025, and other dates better known by Defendants, by conducting or authorizing others to conduct renovation, debris removal, handle existing stockpiles, reprocess material, clean and/or maintenance activities at the Facility, in violation of the CDPH Orders.

148. Section 11-4-025(e) of the Code provides that any person found to have violated Code Section 11-4-025(b) is subject to a civil penalty of \$5,000 for every day the person is in violation. Such person incurs daily penalties for violations of the CDPH Orders during the pendency of the Commissioner's orders, regardless of whether the CDPH Orders are ultimately cancelled or modified by the Commissioner.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, CITY OF CHICAGO, respectfully requests that this Court grant an immediate and preliminary injunction and, after trial, a permanent injunction and judgment in favor of Plaintiff, CITY OF CHICAGO, and against Defendants, MCC PROPERTIES, LLC, a Delaware limited liability company, MC CONSTRUCTION GROUP, LLC, an Illinois limited liability company, and FINTAN MCCARTHY, an individual, on this Count X, as follows:

1. Finding that Defendants have each violated Code Section 11-4-025(b);
2. Enjoining Defendants from committing any further violations of Code Section 11-4-025(b);
3. Assessing civil penalties of \$5,000, as provided by Code Section 11-4-025(e), for each day of each Defendant's violation of Code Section 11-4-025(b);
4. Assessing all the City's costs against Defendants, including pursuant to Chapter 1-20 of the Code, and attorney, expert witness, and consultant fees expended by the City in its pursuit of an injunction action; and
5. Granting such other relief as this Court deems appropriate and just.

COUNT XI
FAILURE TO REMOVE WASTE
(Municipal Code of Chicago, § 11-4-1585(a))

1-142. The City re-alleges and incorporates as if fully stated and alleged herein paragraphs 1 through 142 of Count IX above, as paragraphs 1 through 142 of this Count XI.

143. Pursuant to Sections 11-4-120 and 11-4-1490 of the Code, for purposes of Chapter 11-4, Article IX. (Solid and Liquid Waste Control) of the Code, "person" means:

any individual natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, city, county, municipality, district or other political subdivision, department, bureau, agency or instrumentality of federal, state or local government, contractor, supplier, vendor, installer, operator, user or owner, or any officers, agents, employees, factors, or any kind of representatives of any thereof, in any capacity, acting either for himself, or for any other person, under either personal appointment or pursuant to law, or other entity recognized by law as the subject of rights and duties....

144. Pursuant to Sections 11-4-120 and 11-4-1490 of the Code, for purposes of Chapter 11-4, Article IX. (Solid and Liquid Waste Control) of the Code, "waste" means:

any discarded or abandoned material in solid, semisolid, liquid or contained gaseous form, including but not limited to, industrial process waste, hazardous

waste, municipal waste, special waste, garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, but excludes:

- (1) Sewage collected and treated in a municipal or regional sewage system; or
- (2) Recyclable materials managed in compliance with the provisions of this chapter and regulations of the City of Chicago.

145. Section 11-4-1585(a) of the Code provides, in relevant part:

Any owner, occupant, agent, or person in possession or control of any ... business or lot ... shall remove or cause to be removed any waste located on any such ...place of business or lot ..., or any portion thereof. Any unremoved waste is hereby declared to be a public nuisance. Any owner or other person found in violation of this section shall be punished by a penalty of not less than \$750.00 and not more than \$5,000.00 for each offense and each day that such a violation continues shall constitute a separate and distinct offense....

146. At all times relevant to the Counts brought by the City, MCC Properties was an owner and a person in possession and control of and an occupant of lots at 6001 -6159 W. Dickens Avenue, Chicago, Illinois (collectively, “the Dickens lots”), for purposes of Section 11-4-1585(a) of the Code.

147. At all times relevant to the Counts brought by the City, upon information and belief, MC Construction is a person in possession or control of or an occupant of the Dickens lots and the operator of its business at the Dickens lots, for purposes of Section 11-4-1585(a) of the Code.

148. At all times relevant to the Counts brought by the City, upon information and belief, Mr. McCarthy is an agent MCC Properties and MC Construction and a person in control of the Dickens lots, for purposes of Section 11-4-1585(a) of the Code.

149. The Roof Debris Piles constitute “waste” for purposes of Section 11-4-1585(a) of the Code.

150. The Roof Debris Piles are a public nuisance pursuant to Section 11-4-1585(a) of the Code.

151. Since at least November 26, 2024 and through April 25, 2025, in violation of Section 11-4-1585(a) of the Code, none of the Defendants removed the Roof Debris Piles from the Dickens lots.

152. MCC Properties, MC Construction, and Mr. McCarthy are each liable for civil penalties in the amount of not less than \$750.00 and not more than \$5,000.00 for each violation of Section 11-4-1585(a) of the Code and each day that such violation continued.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff, CITY OF CHICAGO, respectfully requests that this Court grant an immediate and preliminary injunction and, after trial, a permanent injunction and judgment in favor of Plaintiff, CITY OF CHICAGO, and against Defendants, MCC PROPERTIES, LLC, a Delaware limited liability company, MC CONSTRUCTION GROUP, LLC, an Illinois limited liability company, and FINTAN MCCARTHY, an individual, on this Count XI, as follows:

1. Finding that Defendants have each violated Code Section 11-4-1585(a);
2. Enjoining Defendants from committing any further violations of Code Section 11-4-1585(a);
3. Ordering Defendants to remove and dispose of the Roof Debris Piles in accordance with all applicable laws;
4. Assessing civil penalties against the Defendants of not less than \$750.00 and not more than \$5,000.00 for each violation of Code Section 11-4-1585(a) and each day that such violation continued;
5. Assessing all the City's costs against Defendants, including pursuant to Chapter 1-20 of the Code, and attorney, expert witness, and consultant fees expended by the City in its pursuit of an injunction action; and

6. Granting such other relief as this Court deems appropriate and just.

COUNT XII
FAILURE TO CONTROL AIRBORNE SUBSTANCES
(Municipal Code of Chicago, § 11-4-760)

1-142. The City re-alleges and incorporates as if fully stated and alleged herein paragraphs 1 through 142 of Count XI above, as paragraphs 1 through 142 of this Count XII.

143. Chapter 11-4, Article II, Section 11-4-760(a) of the Code provides:

Material handling: No person shall cause or permit the use, handling, loading, unloading, storing, depositing, or scattering of any substance or material that may become airborne or be scattered by the wind without taking reasonable precautions to minimize windborne particulate matter.

144. Chapter 11-4, Article II, Section 11-4-760(b) of the Code provides:

Material storage: No person shall operate or maintain, or cause to be operated or maintained, any building, structure, premises, open area, right-of-way or enterprise which contains, uses or involves any substance or material that may become airborne or be scattered by the wind without taking reasonable precautions to minimize windborne particulate matter.

145. For purposes of section 11-4-760 of the Code, Defendants are each a “person” as defined in section 11-4-120 of the Code.

146. The Roof Debris Piles, upon information and belief, created from and placed on a portion of the Facility’s roof located closest to the Burbank Elementary School property, contain material, including particulate matter, that may become airborne or be scattered by the wind.

147. Upon information and belief, the Roof Debris Piles have been placed and allowed to remain on top of the roof, uncovered and open to the elements, since at least November 2024.

148. A substantial portion of the Facility is not covered by an intact roof that would protect the interior from the elements, including wind. A substantial portion of the Facility has open, uncovered, and broken windows, without any glass or any covering over open holes in the windows.

149. Each of the debris piles located in the Facility contains material, including particulate matter, that may become airborne or be scattered by the wind.

150. Each of the Defendants caused or permitted the use, handling, storing, and depositing of the material in the Roof Debris Piles.

151. Each of the Defendants caused or permitted the use, handling, storing, and depositing of the material in the debris piles located throughout the Facility.

152. Each of the Defendants operated or maintained, or caused to be operated or maintained, the Facility, which contains the Roof Debris Piles and other debris piles located throughout the Facility.

153. None of the Defendants have taken reasonable precautions to minimize windborne particulate matter that may become airborne or be scattered by the wind from the Roof Debris Piles.

154. None of the Defendants have taken reasonable precautions to minimize windborne particulate matter that may become airborne or be scattered by the wind from the debris piles throughout the Facility.

155. Pursuant to Sections 11-4-810(a)(7) and 11-4-810(b) of the Code, any person who violates any of the provisions of Code Section 11-4-760, shall be fined not less than \$1,000.00 nor more than \$5,000.00, per day, with each day of violation constituting a separate and distinct offense.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, CITY OF CHICAGO, respectfully requests that this Court grant an immediate and preliminary injunction and, after trial, a permanent injunction and judgment in favor of Plaintiff, and against Defendants, MCC PROPERTIES, LLC, a Delaware limited liability

company, MC CONSTRUCTION GROUP, LLC, an Illinois limited liability company, and FINTAN MCCARTHY, an individual, on this Count XII, as follows:

1. Finding that Defendants have each violated Code sections 11-4-760(a) and (b);
2. Enjoining Defendants from committing any further violations of Code Sections 11-4-760(a) and (b);
3. Ordering Defendants to take all reasonable precautions to minimize windborne particulate matter at and from the Facility;
4. Assessing civil penalties of not less than \$1,000.00 and not more than \$5,000, as provided by Code Sections 11-4-810(a)(7) and 11-4-810(b), for each day of each Defendant's violation of Code Section 11-4-760;
5. Assessing all the City's costs against Defendants, including pursuant to Chapter 1-20 of the Code, and attorney, expert witness, and consultant fees expended by the City in its pursuit of an injunction action; and
6. Granting such other relief as this Court deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. KWAME RAOUL, Attorney
General of the State of Illinois,

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

By: /s/ Stephen Sylvester
STEPHEN SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:
Rebecca Kanz
Molly Kordas
Jason Clark
Assistant Attorneys General
Environmental Bureau
69 W. Washington Street, 18th Floor
Chicago, Illinois 60602
(312) 881-0556
Rebecca.Kanz@ilag.gov
Molly.Kordas@ilag.gov
Jason.Clark@ilag.gov

THE CITY OF CHICAGO
MARY B. RICHARDSON-LOWRY,
Corporation Counsel

BY: /s/ Gabrielle Sigel
GABRIELLE SIGEL

DORIS McDONALD
Chief Assistant Corporation Counsel
GABRIELLE SIGEL
Assistant Corporation Counsel, Supervisor
City of Chicago – Department of Law
Aviation, Environmental, Regulatory & Contracts Division
2 N. LaSalle Street, Suite 540
Chicago, IL 60602
312-744-1438
doris.mcdonald@cityofchicago.org
gabrielle.sigel@cityofchicago.org

EXHIBIT A
Chicago Department of Public Health
Emergency Cease and Desist and Abatement Orders
Issued to Fintan McCarthy & MC Construction, LLC
April 25, 2025

Exhibit A to Complaint

EMERGENCY CEASE AND DESIST AND ABATEMENT ORDERS UNDER SECTIONS 11-4-025 and 11-4-2205 OF THE MUNICIPAL CODE OF CHICAGO



Issued To: Fintan McCarthy; MC Construction Group LLC
Site Address: 6001-6169 W. Dickens Avenue, Chicago, Illinois (the Facility)

PLEASE BE ADVISED that the Chicago Commissioner of Public Health (the Commissioner) has found that you are causing and creating conditions that pose an imminent and substantial risk to the public health, safety, or the environment at and from the Facility identified above, specifically: imminent and substantial threats of exposure to asbestos, a known human carcinogen, asbestos-containing material (ACM), and asbestos-containing waste (ACW) and/or release of asbestos, ACM, and ACW into the environment, and/or failure to adequately and appropriately handle and control asbestos, ACM, and ACW during demolition, renovation, alteration, repair, cleaning or maintenance activities, as further specified in Article XVIII of the Municipal Code of Chicago (Code).

AS OF THIS 25th DAY OF APRIL 2025, YOU ARE HEREBY ORDERED TO IMMEDIATELY CEASE AND DESIST FROM any demolition, renovation, alteration, debris removal, adding new debris or other material, handling existing stockpiles, reprocessing or recycling material, repair, cleaning or maintenance activities at or from the Facility unless and until written documentation has been submitted, and approved in writing by the Commissioner, demonstrating that an Illinois-licensed asbestos inspector has (a) thoroughly and appropriately inspected the Facility to the Commissioner's satisfaction, and (b) certified that there is no asbestos, ACM, or ACW present at the Facility, including within the ambient air within the Facility.

AS OF THIS 25th DAY OF APRIL 2025, YOU ARE HEREBY ORDERED TO IMMEDIATELY ABATE the conditions that pose an imminent and substantial risk to the public health, safety, or the environment at and from the Facility identified above, by retaining, no later than Thursday, May 1, 2025, an Illinois-licensed asbestos inspector to thoroughly and accurately inspect the Facility for asbestos, ACM, or ACW, including through laboratory analysis of samples of materials and testing of the ambient air within the Facility. The Illinois-licensed asbestos inspector must begin work at the Facility no later than Monday, May 5, 2025, unless the Commissioner, in writing, agrees to a later date. The written report of the inspector, which shall include the location and condition of any asbestos, ACM, or ACW found, must be provided to the Commissioner and, after receipt of the report by the Commissioner, the inspector must be available for further inquiry by the Commissioner and her delegate(s). **Furthermore, if any asbestos, ACM, or ACW is found** by the Illinois-licensed asbestos inspector at the Facility, **you must, within a time period agreed to, in writing, by the Commissioner (a) provide plans prepared by an Illinois-licensed asbestos professional, contractor, and/or designer, for the abatement of the asbestos, ACM, or ACW; (b) commence abatement according to plans agreed to in writing by the Commissioner; and (c) seal the Facility's openings to the environment, including sealing windows, roof, doors, and other openings, to prevent the release of asbestos, ACM, or ACW into the environment.** Compliance with each of the requirements in this Abatement Order must be reported in writing to Dave Graham, Director, Environmental Health & Safety Compliance, dave.graham@cityofchicago.org. If you fail to comply with any requirements of this Abatement Order, CDPH can take abatement action, in accordance with the law, at your expense, which can result in additional penalties and costs.

BE FURTHER ADVISED that your activities at the Facility are on this date in violation of the following sections of the Chicago Municipal Code (the Code), and that the Commissioner seeks remedies including cessation of these operation and activities, abatement, civil penalties, and cost recovery in accordance with the Code: section 7-28-060, in that you caused or allowed the Facility to be made, used, kept, maintained, or operated in a manner that is dangerous to life or detrimental to health; sections 11-4-2170(a) and 11-4-2170(i) for failure to provide notice, accompanied by the environmental review fee, of demolition of a building, facility, or other structure; section 11-4-2170(b) for failure to demolish or renovate a building, facility, or other structure in a way that does not cause the emission or dispersion of dust; sections 11-4-2170(e)(3) and 11-4-2170(i) for failure to provide notice and environmental review fee for asbestos abatement at the Facility. Nothing in this document waives or limits the Commissioner's rights to bring additional action under the law or from enforcing additional violations found at the Facility.

IMPORTANT INFORMATION

You shall have 14 calendar days from the service date of this Order to notify the Commissioner, on the form attached hereto, of your demand for a hearing. At the hearing you may contest any of the allegations specified in this Order or you may present evidence as to why you are not liable for all or any of the violations specified in this Order, and/or why the Order should be vacated. Failure to notify the Commissioner of a demand for a hearing in the time and manner described above shall constitute a waiver of the opportunity for a hearing.

Submittal of a demand for hearing shall not relieve you of the duty to comply with this Order.

If you fail to comply with the requirements in this Order, the Department of Public Health (the Department) may undertake any activities reasonably necessary to abate any imminent and substantial risk to the public health or safety or to the environment. Thereafter, the Department shall be authorized to bring a civil action to recover from you up to three times the abatement costs incurred by the Department plus attorney fees. Furthermore, the Department may place, and subsequently foreclose on, a lien upon the property, if necessary. The recovery of costs shall be in addition to any applicable civil penalties.

Failure to comply with this Order is a violation of sections 11-4-025 and 11-4-2205 of the Code and will subject you to a penalty of \$5,000 per day, in addition to any other applicable penalties or costs.

Call Dave Graham at (312) 745-4034, if you have any questions concerning this order.

Dr. Olusimbo Ige, Commissioner
Chicago Department of Public Health

By: _____

Dave Graham

Director, Environmental Health & Safety Compliance

**HEARING REQUEST FORM
EMERGENCY CEASE & DESIST AND ABATEMENT
UNDER SECTIONS 11-4-025 AND 11-4-2205 OF THE
MUNICIPAL CODE OF CHICAGO**



*Note: This form must be received by the Department of Public Health, Attn. Dave Graham, Environmental Health and Safety Compliance, 2160 W. Ogden Ave., Chicago, IL, 60612, within **14 calendar days from the service date** of the Emergency Cease & Desist and Abatement Orders. Failure to deliver this completed form by the specified deadline shall constitute a waiver of the opportunity for a hearing.*

Name: _____

Address: _____

Telephone Number: _____

I received Emergency Cease & Desist and Abatement Orders from the Department of Public Health on _____ (date), pertaining to the facility located at **6001-6169 W. Dickens Avenue, Chicago, IL 60639.**

I hereby demand a hearing in accordance with the provisions of Section 11-4-025(b) of the Municipal Code of Chicago, which requires the Commissioner of the Department of Health to initiate a hearing with the Department of Administrative Hearings within 7 calendar days of receiving this demand and requires the hearing to be commenced no later than 14 calendar days after the date on which the Commissioner received this demand, unless a later hearing date is scheduled with my consent.

I understand that submittal of this demand does not relieve me of the duty to comply with the emergency cessation and abatement orders that are the subject of this request.

I agree that the address set forth above may be used for service of all documents associated with this hearing request or an administrative proceeding initiated pursuant thereto.

Signature

Date

For office use only:

Date received: _____ Time _____

Received by: _____

EXHIBIT B
Chicago Department of Public Health
Emergency Cease and Desist and Abatement Orders
Issued to MCC Properties, LLC
April 28, 2025

Exhibit B to Complaint

EMERGENCY CEASE AND DESIST AND ABATEMENT ORDERS UNDER SECTIONS 11-4-025 and 11-4-2205 OF THE MUNICIPAL CODE OF CHICAGO



Issued To: MCC Properties, LLC

Site Address: 6001-6169 W. Dickens Avenue, Chicago , Illinois (the Facility)

PLEASE BE ADVISED that the Chicago Commissioner of Public Health (the Commissioner) has found that you are causing and creating conditions that pose an imminent and substantial risk to the public health, safety, or the environment at and from the Facility identified above, specifically: imminent and substantial threats of exposure to asbestos, a known human carcinogen, asbestos-containing material (ACM), and asbestos-containing waste (ACW) and/or release of asbestos, ACM, and ACW into the environment, and/or failure to adequately and appropriately handle and control asbestos, ACM, and ACW during demolition, renovation, alteration, repair, cleaning or maintenance activities, as further specified in Article XVIII of the Municipal Code of Chicago (Code).

AS OF THIS 28th DAY OF APRIL 2025, YOU ARE HEREBY ORDERED TO IMMEDIATELY CEASE AND DESIST FROM any demolition, renovation, alteration, debris removal, adding new debris or other material, handling existing stockpiles, reprocessing or recycling material, repair, cleaning or maintenance activities at or from the Facility unless and until written documentation has been submitted, and approved in writing by the Commissioner, demonstrating that an Illinois-licensed asbestos inspector has (a) thoroughly and appropriately inspected the Facility to the Commissioner's satisfaction, and (b) certified that there is no asbestos, ACM, or ACW present at the Facility, including within the ambient air within the Facility.

AS OF THIS 28th DAY OF APRIL 2025, YOU ARE HEREBY ORDERED TO IMMEDIATELY ABATE the conditions that pose an imminent and substantial risk to the public health, safety, or the environment at and from the Facility identified above, by retaining, no later than Thursday, May 1, 2025, an Illinois-licensed asbestos inspector to thoroughly and accurately inspect the Facility for asbestos, ACM, or ACW, including through laboratory analysis of samples of materials and testing of the ambient air within the Facility. The Illinois-licensed asbestos inspector must begin work at the Facility no later than Monday, May 5, 2025, unless the Commissioner, in writing, agrees to a later date. The written report of the inspector, which shall include the location and condition of any asbestos, ACM, or ACW found, must be provided to the Commissioner and, after receipt of the report by the Commissioner, the inspector must be available for further inquiry by the Commissioner and her delegate(s). Furthermore, if any asbestos, ACM, or ACW is found by the Illinois-licensed asbestos inspector at the Facility, you must, within a time period agreed to, in writing, by the Commissioner (a) provide plans prepared by an Illinois-licensed asbestos professional, contractor, and/or designer, for the abatement of the asbestos, ACM, or ACW; (b) commence abatement according to plans agreed to in writing by the Commissioner; and (c) seal the Facility's openings to the environment, including sealing windows, roof, doors, and other openings, to prevent the release of asbestos, ACM, or ACW into the environment. Compliance with each of the requirements in this Abatement Order must be reported in writing to Dave Graham, Director, Environmental Health & Safety Compliance, dave.graham@cityofchicago.org. If you fail to comply with any requirements of this Abatement Order, CDPH can take abatement action, in accordance with the law, at your expense, which can result in additional penalties and costs.

BE FURTHER ADVISED that your activities at the Facility are on this date in violation of the following sections of the Chicago Municipal Code (the Code), and that the Commissioner seeks remedies including cessation of these operation and activities, abatement, civil penalties, and cost recovery in accordance with the Code: section 7-28-060, in that you caused or allowed the Facility to be made, used, kept, maintained, or operated in a manner that is dangerous to life or detrimental to health; sections 11-4-2170(a) and 11-4-2170(i) for failure to provide notice, accompanied by the environmental review fee, of demolition of a building, facility, or other structure; section 11-4-2170(b) for failure to demolish or renovate a building, facility, or other structure in a way that does not cause the emission or dispersion of dust; sections 11-4-2170(e)(3) and 11-4-2170(i) for failure to provide notice and environmental review fee for asbestos abatement at the Facility. Nothing in this document waives or limits the Commissioner's rights to bring additional action under the law or from enforcing additional violations found at the Facility.

IMPORTANT INFORMATION

You shall have 14 calendar days from the service date of this Order to notify the Commissioner, on the form attached hereto, of your demand for a hearing. At the hearing you may contest any of the allegations specified in this Order or you may present evidence as to why you are not liable for all or any of the violations specified in this Order, and/or why the Order should be vacated. Failure to notify the Commissioner of a demand for a hearing in the time and manner described above shall constitute a waiver of the opportunity for a hearing. **Submittal of a demand for hearing shall not relieve you of the duty to comply with this Order.**

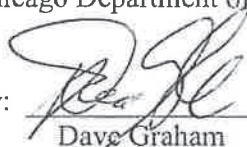
If you fail to comply with the requirements in this Order, the Department of Public Health (the Department) may undertake any activities reasonably necessary to abate any imminent and substantial risk to the public health or safety or to the environment. Thereafter, the Department shall be authorized to bring a civil action to recover from you up to three times the abatement costs incurred by the Department plus attorney fees. Furthermore, the Department may place, and subsequently foreclose on, a lien upon the property, if necessary. The recovery of costs shall be in addition to any applicable civil penalties.

Failure to comply with this Order is a violation of sections 11-4-025 and 11-4-2205 of the Code and will subject you to a penalty of \$5,000 per day, in addition to any other applicable penalties or costs.

Call Dave Graham at (312) 745-4034, if you have any questions concerning this order.

Dr. Olusimbo Ige, Commissioner
Chicago Department of Public Health

By:



Dave Graham

Director, Environmental Health & Safety Compliance

**HEARING REQUEST FORM
EMERGENCY CEASE & DESIST AND ABATEMENT
UNDER SECTIONS 11-4-025 AND 11-4-2205 OF THE
MUNICIPAL CODE OF CHICAGO**



*Note: This form must be received by the Department of Public Health, Attn. Dave Graham, Environmental Health and Safety Compliance, 2160 W. Ogden Ave., Chicago, IL, 60612, within **14 calendar days from the service date of the Emergency Cease & Desist and Abatement Orders**. Failure to deliver this completed form by the specified deadline shall constitute a waiver of the opportunity for a hearing.*

Name: _____

Address: _____

Telephone Number: _____

I received Emergency Cease & Desist and Abatement Orders from the Department of Public Health on _____ (date), pertaining to the facility located at **6001-6169 W. Dickens Avenue, Chicago, IL 60639.**

I hereby demand a hearing in accordance with the provisions of Section 11-4-025(b) of the Municipal Code of Chicago, which requires the Commissioner of the Department of Health to initiate a hearing with the Department of Administrative Hearings within 7 calendar days of receiving this demand and requires the hearing to be commenced no later than 14 calendar days after the date on which the Commissioner received this demand, unless a later hearing date is scheduled with my consent.

I understand that submittal of this demand does not relieve me of the duty to comply with the emergency cessation and abatement orders that are the subject of this request.

I agree that the address set forth above may be used for service of all documents associated with this hearing request or an administrative proceeding initiated pursuant thereto.

Signature

Date

For office use only:

Date received: _____ Time _____

Received by: _____

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. KWAME RAOUL, Attorney General
of the State of Illinois, and
CITY OF CHICAGO, an Illinois municipal
corporation,

Plaintiffs,

v.

MCC PROPERTIES, LLC
a Delaware limited liability company,
MC CONSTRUCTION GROUP, LLC
an Illinois limited liability company, and
FINTAN MCCARTHY, an individual,

Defendants.

No. 25 CH ____

VERIFICATION

I, Peter Brusky, do state as follows:

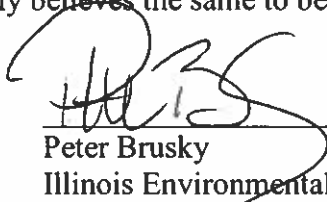
1. I am currently employed by the Illinois Environmental Protection Agency ("Illinois EPA") in Springfield, Illinois as an Environmental Protection Specialist, Working Supervisor.
2. I have been employed by the Illinois EPA for the past 7 years with the last 3 years in my current position.
3. The duties and responsibilities of my current position include complaint and incident investigation for Asbestos NESHAP compliance and review of related project notification forms.
4. I have read the foregoing Verified Complaint for Injunction and Civil Penalties ("Complaint") and am aware of the contents thereof.
5. The factual matters set forth in Paragraphs 12, 32 through 39, 41, 46 through 49 and 52 of Count I of the Complaint are true in substance and in fact, to the best of my knowledge,

information, and belief.

6. The factual matters set forth in Paragraphs 59, 60, and 67 of Count II of the Complaint are true in substance and in fact, to the best of my knowledge, information, and belief.

7. The factual matters set forth in Paragraphs 68 through 73 of Count VI of the Complaint are true in substance and in fact, to the best of my knowledge, information, and belief.

8. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.



Peter Brusky
Illinois Environmental Protection Agency

Dated: 25 July 2025

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. KWAME RAOUL, Attorney General)
of the State of Illinois, and)
CITY OF CHICAGO, an Illinois municipal)
corporation,)

Plaintiffs,)

v.)

No. 25 CH ____

MCC PROPERTIES, LLC)
a Delaware limited liability company,)
MC CONSTRUCTION GROUP, LLC)
an Illinois limited liability company, and)
FINTAN MCCARTHY, an individual,)

Defendants.)

VERIFICATION OF LEE POLLY

I, Lee Polly, do state as follows:

1. I am currently employed by the Chicago Department of Public Health, Office of Environmental Permitting and Inspections ("Chicago DPH") in Chicago, Illinois as an Environmental Engineer III.

2. I have been employed by Chicago DPH for the past more than two years.


3. I am an asbestos professional licensed by the Illinois Department of Public Health. The duties and responsibilities of my current position include conducting announced and unannounced inspections of actual or potential sources of asbestos-containing material, asbestos-containing waste material, regulated asbestos-containing material, and all other asbestos contamination at buildings in Chicago.

4. In the course of my employment with Chicago DPH, I have obtained direct and personal knowledge as to the conditions and certain activities at the facility located at 6001-6159 West Dickens Avenue, Chicago, Illinois.

5. I have read the foregoing Verified Complaint for Injunction and Civil Penalties (the "Complaint"), and I am aware of the contents thereof.

6. The factual matters set forth in Paragraphs 27 through 31, 40, and 42 through 45 of Count I; Paragraph 113 of Count VII; Paragraphs 146 through 148 and 151 of Count XI; and Paragraphs 146 through 154 of Count XXII of the Complaint, both as first alleged and to the extent they are re-alleged and incorporated in subsequent Counts, are true in substance and in fact, to the best of my knowledge, information, and belief.

7. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.


LEE POLLY
Chicago Department of Public Health

Dated: July 25, 2025

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISON**

PEOPLE OF THE STATE OF ILLINOIS,)	
<i>ex rel.</i> KWAME RAOUL, Attorney General)	
of the State of Illinois, and)	
CITY OF CHICAGO, an Illinois municipal)	
corporation,)	
)	
Plaintiffs,)	
)	
v.)	No. 25 CH ____
)	
MCC PROPERTIES, LLC)	
a Delaware limited liability company,)	
MC CONSTRUCTION GROUP, LLC)	
an Illinois limited liability company, and)	
FINTAN MCCARTHY, an individual,)	
)	
Defendants.)	

VERIFICATION OF JOHN C. SINGLER

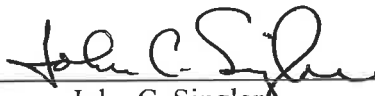
I, John C. Singler, do state as follows:

1. I am currently employed by the Chicago Department of Public Health, Office of Environmental Permitting and Inspections ("Chicago DPH") in Chicago, Illinois as an Environmental Engineer I.
2. I have been employed by Chicago DPH for the past 10.5 years.
3. I am an asbestos professional licensed by the Illinois Department of Public Health. The duties and responsibilities of my current position include conducting announced and unannounced inspections of actual or potential sources of asbestos-containing material, asbestos-containing waste material, regulated asbestos-containing material, and all other asbestos contamination at buildings in Chicago.
4. In the course of my employment with Chicago DPH, I have obtained direct and personal knowledge as to the conditions and certain activities at the facility located at 6001-6159 West Dickens Avenue, Chicago, Illinois.

5. I have read the foregoing Verified Complaint for Injunction and Civil Penalties (the "Complaint"), and I am aware of the contents thereof.

6. The factual matters set forth in Paragraphs 13 through 26, 50, and 51 of Count I; Paragraphs 111-112, 114 through 130, and 132 of Count VII; Paragraphs 134 through 137 of Count VIII; Paragraph 141 of Count IX; and Paragraph 147 of Count X of the Complaint, both as first alleged and to the extent they are re-alleged and incorporated in subsequent Counts, are true in substance and in fact, to the best of my knowledge, information, and belief.

7. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.



John C. Singler
Chicago Department of Public Health

Dated: July 25, 2025