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AHENSIAAN PRUTEKSION LINALA GUÁHAN

LOURDES A. LEON GUERRERO, GOVERNOR OF GUAM • JOSHUA F. TENORIO, LIEUTENANT GOVERNOR OF GUAM
WALTER S. LEON GUERRERO, ADMINISTRATOR

Mr. Johnathon Leon Guerrero
Property Manager/Tenant
645 W. Marine Corp. Drive
Hagatna, Guam 96932

RE: Notice of Violation and Order of Compliance NOV/OC No. SW 19-002

Hafa Adai Mr. Leon Guerrero:

You are hereby advised that this **Notice of Violation and Order of Compliance (NOV/OC) No. SW19-002** is hereby issued to you for solid waste violations found during inspections conducted on October 25, 2018 at a commercial building (hereinafter referred to the Old Pamela 76 Bldg.) located on Lot No. 1413REM-1 in the municipality of Agana.

The Guam Environmental Protection Agency (Guam EPA) is charged with the responsibility of implementing the Solid Waste Management and Litter Control (SWMLC), Chapter 51 of Title 10, Guam Code Annotated (G.C.A.).

This NOV/OC is based on the October 25, 2018, Compliance Evaluation Inspection (CEI) conducted as a result of a solid waste complaint of illegal dumping of miscellaneous household trash along the Old Pamela 76 Building by the Hagatna Mayor's Office.

During the inspection, Guam EPA observed approximately fifteen (15) cubic yards of miscellaneous solid waste including, waste tires, furniture, wooden pallets, mattresses, and other household trash on the property along Santa Marian Kamalen Street easement. At the time of the inspection no trash bins or containers for solid waste were on seen on site.

According to Ms. Akenes Onan who resides at the Old Pamela 76 Bldg. the debris was left by previous tenants and placed next to the building and along the Santa Marian Kamalen Street by her landlord, Mr. Johnathon Leon Guerrero who also resides in the building. However, all attempts to contact Mr. Leon Guerrero by Guam EPA were unsuccessful.

Additionally, Honorable John A. Cruz, Mayor of the municipality of Hagatna reported that the apartment building is accumulating household debris along Santa Marian Kamalen Street creating a public nuisance and a health and safety hazard. The property manager Mr. Johnathon Leon Guerrero was notified by the mayor's office to properly dispose of the waste and no action was taken.

A detailed Compliance Evaluation Inspection Report and photos of the investigation conducted at the site are enclosed.

GUAM EPA | 17-3304 Mariner Avenue Tiyan Barrigada, Guam 96913-1617 | Tel: (671) 300.4751/2 | Fax: (671) 300.4531 | epa.guam.gov
TODU Y NIJAIA Y TANO MAN UNO - ALL LIVING THINGS ARE ONE

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NOTICE OF VIOLATIONS

Based on the above and foregoing facts, as well as those contained in the enclosed investigation report, you are in violation of the following sections of the Solid Waste Management and Litter Control (SWMLC), Chapter 51 of Title 10. The deficiencies and regulatory provisions that have been violated are indicated below and are the basis for this **Notice of Violation and Order of Compliance**.

1. **Section 51110(a)(1)** states that "it shall be unlawful for any person to violate any provision of this Chapter or any rule, regulation, standard, or order issued pursuant to this Chapter".
 - **You violated the provisions of this Chapter.**

2. **Section 51110(a)(3)** states that "it shall be unlawful for any person to place, or allow to be placed, any solid waste upon the highways, public or private property contrary to the provisions of this Chapter".
 - **You placed or allowed the placement of miscellaneous household solid waste such as but not limited to trash, mattresses, pallets, furniture, sofas, appliances, and waste tires on the property and along Santa Marian Kamalen Street contrary to the provisions of this Chapter.**

3. **Section 51110(a)(5)** states that "it shall be unlawful for any person to store, collect, transport, process, or dispose of solid waste in such a manner as to degrade the environment, create a public nuisance, create a health or safety hazard, or violate any provisions of this Chapter".
 - **You stored solid waste along Santa Marian Kamalen Street in such a manner as to degrade the environment and create a health and safety hazard and a public nuisance.**

ORDER OF COMPLIANCE

Based on the violations cited above, Guam EPA hereby requires you to perform the following remedial measures within the time frames stated below, from the date of receipt of this Order:

1. Immediately cease all illegal solid waste activity on the aforementioned property and provide proper trash containers through a permitted trash collection service provider;
2. Within seven (7) calendar days of receipt of this Notice of Violation and Order of Compliance, submit a facility compliance cleanup and a schedule of excessive waste stream disposal plan and schedule for removal. The disposal plan and compliance schedule shall be submitted to the Agency for review, modification and/or approval. At minimum, the disposal plan and compliance schedule should include the following:
 - a. Type of wastes;
 - b. Volume/quantity of wastes;

- c. Location of disposal facility(ies);
 - d. Schedule of compliance (Timeframe in which compliance activities will be initiated and completed).
3. Within fifteen(15) calendar days upon the approval of the Disposal Plan, properly dispose all solid wastes and provide disposal receipts to Guam EPA confirming the final disposition of the excessive waste stream; and
 4. Within seven (7) calendar days upon cleanup completion submit an affidavit that the above-referenced remedial measures have been taken and the date each was taken, including supporting documentation (disposal receipts and photos). If any of these objectives are not accomplished, additional administrative penalties may be assessed.

Guam EPA reserves the right to impose penalties for the violations listed of up to \$1,000.00 per day for each violation or noncompliance and imprisonment for a term of not more than one year or both as provided by 10 GCA, Chapter 51, §51115 (a) and (b).

NOTICE OF RIGHT TO APPEAL

You may file within fifteen (15) calendar days of the date of this Notice of Violation/Order of Compliance/Administrative Penalty Order, a Notice of Intent to Appeal also known as a Notice of Defense with the Guam EPA's Board of Directors, setting forth in such Notice of Intent to Appeal/Notice of Defense, a verified petition outlining the legal and factual bases for such an appeal. A form copy of the Notice of Intent to Appeal, also known as a Notice of Defense, is attached for your convenience.

Unless a written request for a hearing signed by or on behalf of the person, agency or business entity named above in this Notice of Violation/Order of Compliance/Administrative Penalty Order is made by delivering the enclosed form entitled "Notice of Intent to Appeal (a/k/a Notice of Defense)", or by delivering a notice of defense as provided in 5 G.C.A. Ch. 9, section 9205, to Guam EPA within fifteen (15) calendar days after the Notice of Violation/Order of Compliance/Administrative Penalty Order was personally served on you or mailed to you, Guam EPA may proceed upon the Notice of Violation/Order of Compliance/Administrative Penalty Order without a hearing.

The Notice of Intent to Appeal and verified petition, also known as a Notice of Defense (a copy of which is enclosed for your convenience), which is a request for hearing, may be made by mailing or delivering the enclosed form entitled "Notice of Intent to Appeal also known as a Notice of Defense", or by a notice of defense as provided in 5 G.C.A. Ch.9, section 9205, to the following address:

Guam Environmental Protection Agency Board of Directors
c/o Administrator
Attn: Air & Land Division
Guam Environmental Protection Agency
Building 17-3304 Mariner Avenue Tiyan
Barrigada, Guam 96913

Failure to file a Notice of Intent to Appeal within the period specified above will constitute a waiver of your right to a hearing. Without further notice to you, this Order of Compliance will become final and the Agency may proceed upon the Order without a hearing.

Guam EPA routinely provides copies of the inspection report to Government of Guam agencies, and posts the notices on the Guam EPA website for public information.

If you have any questions regarding the technical aspects of the inspection report or this letter, please contact the Solid Waste Management Program at 300-4751.

Sincerely,



WALTER S. LEON GUERRERO
Administrator

Enclosed: CEI Report
Notice of Intent to Appeal
Hagatna Mayor Statement

cc: USEPA Region 9, Guam Program Manager
Attorney General of Guam

Solid Waste Compliance Evaluation Investigation

Purpose: NOV/OC No.19-002

Date of Investigation: October 25, 2018

Facility Name: N/A

EPA ID Number: N/A

Site Location: 645 W. Marine Corp. Drive and Santa Marian Kamalen St., Lot No. L1413REM-1, Agana (Old Pamela 76 Bldg.)

Owners: Mr. James Anastasios Menzies
Mr. Jason, Menzies Stephen Anastasios

Property Manager: Johnathon Leon Guerrero /988-7530

Alleged Violator: Johnathon Leon Guerrero

Mailing Address: Post Office Box 26252, Barrigada Guam 96921

Contact Number: 777-7814/588-7665

GEPA Representative: Glenn San Nicolas

Phone: 300-4764

Report Date: 10-25-18

Site Map
Old Pamela 76 Bldg.
645 W. Marine Corp. Drive
Lot No. L1413REM-1, Agana



Figure 1. Subject pinned in yellow

BACKGROUND

The subject property was formerly known as the Ed and Joes Building which operated as tailor shop in the early 70's then later the Old Pamela 76 Building which sold floral arrangements under Pamela 76 Inc. The grantee later became Finance Factors LTD then later James Anastasios, Menzies/ Jason, Menzies Stephen Anastasios operated an apartment/commercial rental space and who are the present owners of the property.

INSPECTION

On October 25, 2018, at approximately 1248 hrs. a representative from the Guam EPA responded to a solid waste complaint of illegal dumping of miscellaneous household waste such as, furniture, trash, electronic waste, and tires along Santa Marian Kamalen St. located in the municipality of Agana.

During the investigation, Guam EPA observed approximately fifteen (15) cubic yards of miscellaneous solidwaste specifically, waste tires, furniture, wooden pallets, mattresses, and other household trash next to a commercial building along Santa Marian Kamalen Street.

According to Ms. Akenes Onan who resides at 645 W. Marine Corp. Drive Agana, the debris were placed next to the building by her landlord Mr. Johnathon Leon Guerrero who also resides in the building. According to Ms. Akenes the debris were left by previous tenants of the building.

Additionally, John A. Cruz, Mayor of the municipality of Hagatna reported that the apartment building is accumulating debris along Santa Marian Kamalen Street creating a public nuisance and a health and safety hazard. The property manager Mr. Johnathan Leon Guerrero was notified by the mayor's office to properly dispose of the waste and no action was taken. Site photos were taken.

Doc No :	761003	Seq :	1	Mun :	M01	Tract :	T0
Block :	B0	Lot :	L1413REM-1	Instrument :	AFFI	Certificate :	
Rec'd :	9/6/2007 12:00:00 AM			Processed :	10/6/2008 1:32:55 PM		
Grantor :	FINANCE FACTORS LTD			Grantee :	MENZIES ANASTASIOS JAMES JASON,MENZIES STEPHEN ANASTASIOS		
Description :	M01 L1413REM-1			Area :	SQM	Ref :	70638
Ownership :	P	Amount :		Fee	25		
Survey Reference :							

Fig. 1 Department of Land Management Documents of the last registered owner:

According to Maelinda Bayona, Department of Revenue and Taxation Supervisor the last recorded business license for the two unit apartment/ commercial building was issued to Ms. Anastasios Menzies on Feb. 25, 2008 to June 30, 2012.

Site Photos
Lot No. L1413REM-1, Agana



Photo No. 1

Date Taken: 10-25-2018

Location: Old Pamala 76 Bldg./ Lot No. L1413REM-1, Agana

Description: Front of Apartment from Rt. 1 Marine Corps Drive Agana



Photo No. 2

Date Taken: 10-25-2018

Location: Left side of the building off of Santa Marian Kamalen Street

Description: Wooden pallets, tires, mattress and furniture



Photo No. 3

Date Taken: 10-25-2018

Location: Left side of the building public easement on Santa Marian Kamalen Street

Description: Wooden pallets, tires, trash, mattress and furniture



Photo No. 4

Date Taken: 10-25-2018

Location: Left side of the building public easement on Santa Marian Kamalen Street

Description: Wooden pallets, tires, trash, mattress and furniture



Photo No. 5

Date Taken: 10-25-2018

Location: Left side of the building public easement on Santa Marian Kamalen Street

Description: Wooden pallets, tires, trash, mattress and furniture



Photo No. 6

Date Taken: 10-25-2018

Location: Left side of the building public easement on Santa Marian Kamalen Street

Description: Wooden pallets, tires, trash, mattress and furniture



Office of the Mayor
Ufisinan Mahot
Capital of Guam
Hagåtña, Kapitát Guáhan

John A. Cruz
Mayor

January 23, 2019

TO: Mr. Glenn San Nicolas – Guam Environmental Protection Agency

FROM: John A. Cruz – Mayor of Hagatna

SUBJECT: OLD PAMELA 76 BUILDING
RE: Household Debris on premises

Mr. San Nicolas,

I have received several concerns about the household debris at #161 Dulce Nombre De Maria St. (old Pamela 76 Apartments) in Hagatna dating back to March 2018. We have called and reported this situation to your office on several occasions to which you have been diligently trying to locate the owner/manager.

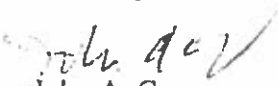
This debris is an eye sore and a sanitary and safety concern. Based on the information our office gathered, the building belongs to Dulce Tsementzis who is residing in the Philippines. She left the premises to be managed by Ligaya Leon Guerrero and/or John Leon Guerrero. The Department of Revenue and Taxation Business License Section DOES NOT have a current business license for said establishment.

Our office has spoken to both Ligaya and John Leon Guerrero in removing said household debris. They indicated that those items were left behind by previous tenants and have done nothing to date in removing/disposing of items.

On November 7, 2018 you came in to our office to advise us that you will be issuing a Notice of Citation to Owner/Manager of said location, however, you have been unsuccessful in physically locating either Ligaya or John Leon Guerrero.

I thank and appreciate your time in this matter. Should you require more information please contact our office at 477-8045/7 or e-mail us at hagatnamayor@hotmail.com

Sincerely,


John A. Cruz
Mayor of Hagatna



Guam Environmental Protection Agency
 17-3304 Mariner Ave.
 Barrigada, Guam 96913-1617



NOTICE OF INTENT TO APPEAL (AKA NOTICE OF DEFENSE)

I, _____, have received your Notice of Violation, Order of Compliance and/or Administrative Penalty Order dated _____, charging me for violations and/or imposing penalties and/or other orders, and I wish to:
 (Please check appropriate sections)

- A. **Request for a hearing and**
 - 1. Object to the accusation on the ground that it does not state acts or omissions upon which the Agency can proceed.
 - 2. Object to the form of the accusation on the ground that it is so indefinite or ambiguous that I cannot identify the infraction or prepare my defense.
 - 3. Wish to prepare new matter in my defense.
 - 4. Admit to the accusation in part.
- B. **Admit to the accusation in whole.**
- C. **Verified Petition: Under penalty of perjury I hereby declare that the following constitutes my legal and factual basis for this appeal:**

[please continue on blank sheet of paper if more space is needed and attach to this paper]

My mailing address is:

SIGNATURE

DATE