Stephen J. Staple
Meritage Hospitality Group
45 Ottawa Avenue, SW, Suite 600
Grand Rapids, MI 49503
616-591-9856 | sstaple@mhgi.net

June 11, 2024

Sent via First Class mail and email to: howeJ1@Michigan.gov

RECEIVED
JUN 12 2024
EGLE - Mailroom

EGLE – AQD
Attn: Jeremy Howe, TPU Supervisor
P.O. Box 30260
Lansing, Michigan 48909-7760

Re: Violation Notice
SRN/ID: U112403062, Berrien County

Dear Supervisor Howe:

Meritage Hospitality Group, Inc. ("Meritage") received the Violation Notice alleging a violation of 40 CFR 61.145(b)(1) for failing to provide a notice of intent to demolish a facility located at 620 S. Main St., Watervliet, Michigan ("Property"). WM Limited Partnership – 1998 ("WM Limited"), a Michigan limited partnership, and a subsidiary of Meritage, is the owner of the Property (**Exhibit 1** – Warranty Deed). WM Limited takes compliance with environmental regulations very seriously. The alleged violation has been fully investigated and necessary corrections have been completed to avoid future issues.

WM Limited relies on the expertise of its contractors and includes express contractual language requiring its contractors to comply with all applicable laws, rules, and regulations. WM Limited entered into a construction contract with GVL Excavating, LLC ("GVL") for the construction of a new Wendy's restaurant on the Property. An asbestos survey was conducted confirming asbestos needed to be removed from the existing building on the Property, prior to demolition of the structure. GVL subcontracted the asbestos removal with Pro-Tech Environmental, Inc. ("Pro-Tech"), a licensed abatement contractor.

Based on the contractual language, GVL's experience and expertise, and the use of a properly licensed abatement contractor, WM Limited had every expectation that environmental regulations pertaining to asbestos would be followed. However, WM Limited's investigation has concluded that while Pro-Tech did file a Notification of Intent to Renovate/Demolish it failed to indicate that the structure would be demolished after the removal of the asbestos (**Exhibit 2** – Notification). Pro-Tech subsequently completed the asbestos abatement as required by the asbestos survey. Thereafter, the existing structure on the Property was removed without an updated or separate notification of demolition.

With the structure demolished, there are no on-going violations, nor is there any action that can be taken to correct the violation. For future construction projects, when asbestos is identified, WM Limited will be confirming with its contractor that each and every required notification is provided to EGLE before proceeding with any removal or demolition. I have also spoken to Ivan Bell, Senior Environmental Quality Analyst, to fully understand the nature of the violation, and how a similar issue can be avoided in the future, including the need to send a separate demolition notification. WM Limited also understands that GVL is implementing additional safety precautions.

Thank you for providing WM Limited with an opportunity to address the allegations. The above-referenced procedures will serve as safeguards to ensure no future violations. Please contact me with any additional questions or concerns.

Sincerely,

/s/ Stephen J. Staple

Stephen J. Staple
Corporate Counsel

Enclosures
cc: George Troth (via email)
Kristen Buter (via email)
Chris VanRyn, GVL (via email)
Jason Wolf, EGLE (via First Class mail and email)
Ivan Bell, EGLE (via email)

EXHIBIT 1

Warranty Deed

CERTIFICATION DOES NOT REFLECT
POSSIBLE HOMESTEAD DENIAL

I HEREBY CERTIFY That there are no Tax Liens or Titles held by the State or any individual against the within description and all Taxes on same are paid for five years previous on the date of this instrument, as appears by the records in my office. This certificate does not apply on taxes, if any, now in process of collection. Also except, Deferred Special Assessments, if any, under Act No. 225, Public Acts of 1976, as amended, and any Specific Tax. (I.E. Enterprise Zone)

Shelly Wind

Date: 04-18-24
No. 12332

Berrien County Treasurer

Lora L. Freehling Register Of Deeds
Berrien County, Michigan

Rec	$26.00	Recorded
Remon	$4.00	APRIL 18, 2024 02:54:43 PM
Tax Crt	$5.00	Liber 3424 Page 3081 - 3084
	Receipt #1011733	W DEED #2024404250

Liber 3424 Page 3081

Received 04/18/2024 10:00:50 AM

RAR-KC

WARRANTY DEED

11-78-0027-0073-00-7 k.s

Grantor:	ABUNDANT HOPE, LLC, a Michigan limited liability company,
whose address is:	3907 Tamarack Terrace, Coloma, Michigan 49038,
conveys and warrants to Grantee:	WM LIMITED PARTNERSHIP – 1998, a Michigan limited partnership,
whose address is:	45 Ottawa Ave SW, Suite 600, Grand Rapids, Michigan 49503,

the premises situated in the City of Watervliet, Berrien County, Michigan, legally described on attached **Exhibit A**.

The property address and tax parcel number listed below are provided for informational purposes without warranty as to accuracy or completeness. If the information listed below is inconsistent with the legal description above, the legal description controls.

Property Address: 620 South M-140 (a/k/a Main Street), Watervliet, MI 49098

Tax Parcel Number: 11-78-0027-0073-00-7

This property is conveyed together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining thereto. Subject to the matters set forth in the instruments identified on attached **Exhibit B**, and zoning ordinances, if any, and also subject to all matters which would be disclosed by an accurate ALTA/NSPS Land Title Survey.

This deed is given for the consideration set forth in the Real Estate Transfer Valuation Affidavit filed with this deed.

The Grantor grants to the Grantee the right to make all available divisions under Section 108 of the Land Division Act, Act No. 288 of the Public Acts of 1967, as amended (the "**Act**"). The Grantor also grants to the Grantee the right to make all bonus divisions if the Grantee qualifies the property described above for such bonus divisions under Section 108 of the Act. The Grantor intends to transfer to the Grantee the right to make all divisions, bonus divisions and redivisions of the property as the Grantor may have under the Act. The foregoing pertains to all parent tracts and/or parent parcels conveyed under this deed.

This property may be located within the vicinity of farmland or within the vicinity of a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, or other associated conditions may be used and are protected by the Michigan Right to Farm Act.

Dated effective April 17 2024.

ABUNDANT HOPE, LLC
a Michigan limited liability company

By: Tracy L. Wagner
Tracy L. Wagner
Title: Sole Member

STATE OF MICHIGAN)
) ss.
COUNTY OF BERRIEN)

Acknowledged before me on the 17th day of April, 2024, by Tracy L. Wagner, the Sole Member of ABUNDANT HOPE, LLC, a Michigan limited liability company, on behalf of the company. She is either _____ personally known to me or produced her DL as identification.

[Seal]

Tiffany Rochefort
Notary Public, Berrien County
Acting in Berrien County, Michigan
Commission Expires 1-14-25

Tiffany Rochefort

Notary Public, _____ County, MI
Acting in Berrien County, MI
My Commission expires: _____

Drafted By:
Kristen Buter, Director of Legal and Risk
Meritage Hospitality Group Inc.
45 Ottawa Ave SW, Suite 600
Grand Rapids, MI 49503
(616) 776-2600

After Recording, Return To:
First American Title Insurance Company
Attn: Diane Tisch, National Escrow Officer
5445 Corporate Drive, Suite 175
Troy, MI 48098-2617
(248) 458-7215

EXHIBIT A
Legal Description

Land in the City of Watervliet, Berrien County, MI, described as follows:

Part of the East Half of the Northeast Quarter of Section 27, Town 3 South, Range 17 West, described as follows: Commencing at a point which is the centerline of public highway M-140 (known as Niles-Watervliet Road) 657.7 feet North of the East Quarter post of said Section 27; thence West 233 feet; thence North 150 feet; thence East 233 feet to the center of M-140; thence South 150 feet to the place of beginning.

EXHIBIT B
Permitted Exceptions

1. Real estate taxes and assessments, both general and special, not yet due and payable.

2. The terms, provisions and easement(s) contained in the document entitled "Deed of Easement" recorded September 06, 1939 as Liber 67 of Miscellaneous Records, Page 7 of Official Records.

3. The terms, provisions and easement(s) contained in the document entitled "Highway Easement Release" recorded September 10, 1952 as Liber 132 of Miscellaneous Records, Page 403 of Official Records.

4. Oil, gas and mineral reservations contained in the Instrument(s) recorded in Liber 588 of Deeds, Page 22.

EXHIBIT 2

Notice of Renovation

NOTIFICATION OF INTENT TO RENOVATE/DEMOLISH

DEQ — MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY (MDEQ) AIR QUALITY DIVISION
NESHAP, 40 CFR Part 61, Subpart M

LARA — MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS (LARA), ASBESTOS PROGRAM, P.A. 135 OF 1986, AS AMENDED, Section 220 (1-4) or (8)

1. NOTIFICATION:

Date of Notification: 04/19/2024 Document #: 0000680724
Date of Original: 04/01/2024 Original Document #: 0000675763
Notification Type: ☐ Original ☑ Revised ☐ Canceled

Mark appropriate boxes: (both DEQ and LARA may apply):

DEQ (NESHAP) [*260 ln. ft./160 sq. ft. or more is threshold*]

☑ Planned Renovation - 10 **working** days notice
☐ Emergency Renovation
☐ Scheduled Demolition - 10 **working** days notice
☐ Intentional Burn - 10 **working** days notice
☐ Ordered Demolition

LARA (MIOSHA) [*Will not accept annual notifications*]

☐ Demo, Reno, Encap. (>10 ln. ft./15 sq. ft.) 10 **calendar** days notice
☐ Emergency Renovation/Encapsulation

Calculate LARA Asbestos Project Fee:(1% Project Fee) ☐ Time & material
Total Project Cost: $0.00 x 0.01 = $0.00
Type of Contractor: License No:
Licensing Authority:

2. PROJECT SCHEDULE:

☐ Check here if this is a multi-phased project, attach a schedule showing the start/end date of each phase.

	START DATE	END DATE
* Renovation:		
+ Asb. Removal:	04/24/2024	04/25/2024
+ Demolition:		
Encapsulation:		

* Includes setup, build enclosure, asbestos removal, demobilizing, etc.
+Include **only** those dates you are conducting asbestos removal/demo

Work Schedule: Please indicate the anticipated days of the week and work hours for the purpose of scheduling a compliance inspection.

	Days of the Week	Work Hours
Asb. Removal:	W, Th	7a-530p
Demolition:		
Encapsulation:		

☐ Check here if the work hours are not the same across the days of the week or vary from day to day and attach a document with Detailed Work Hours.

3. ABATEMENT CONTRACTOR: Internal Project #:
Name: Pro-Tech Environmental, Inc.
Mailing Address: PO Box 141014
City/State/Zip: Grand Rapids, MI 49514
E-mail: Jodi@protechbv.net
Contact: Jodi Vlaming Phone: 616-364-9170

4. DEMOLITION CONTRACTOR: Internal Project #:
Name:
Mailing Address:
City/State/Zip:
E-mail:
Contact: Phone:

5. FACILITY OWNER: Internal Project #:
Name: Meritage Hospitality Group
Mailing Address: 45 Ottawa Ave SW Suite 600
City/State/Zip: Grand Rapids, MI 49503
E-mail:
Contact: George Troth Phone: 616-988-8749

6. FACILITY DESCRIPTION:
Facility Name: Frosty Boy Watervliet
Location Address: 620 S Main Street
City/State/Zip: Watervliet, MI 49098
County: Berrien Age: 64
No. of Floors: 1 If Apt. # of units:
Nearest Crossroad:
Size: (sq. ft.) 1700 Floor No.:
Present Use: Vacant
Prior Use: Ice Cream Shop
Specific Location(s) in Facility: Main Floor

7. DISPOSAL SITE:
Name: Pitsch Sanitary Landfill
Location Address: 7905 Johnson Rd
City/State/Zip: Belding, MI 48809

8. WASTE TRANSPORTER(S):
Name: Pro-Tech Environmental, Inc.
Location Address: 15 North Park St NW
City/State/Zip: Grand Rapids, MI 49544
Name:
Location Address:
City/State/Zip:

9. ORDERED DEMOLITIONS: (See NESHAP regulations for definition of "Ordered Demolition.") A copy of the official Order must accompany this notification.
Gov't Agency Ordering Demo:
Name/Title of Person Signing Order:
Date of Order: Date Ordered to Begin:

10. ASBESTOS INFORMATION

Is asbestos present? *(i.e. Assumed or identified in asbestos inspection report)* ☑ Yes ☐ No Will asbestos be removed prior to demolition? ☐ Yes ☐ No

Estimate the amount of asbestos: *Include RACM (Regulated Asbestos Containing Material) to be removed, encapsulated, etc. Also include the amount and type (floor tile, roofing, etc.) of non-friable Category I and/or Category II ACM that* ***will not*** *be removed prior to demolition. (**NOTE**: In a demolition, cementitious ACM* ***cannot*** *remain in a structure, as it is likely to become regulated in the demolition/handling process. It* ***must*** *be removed prior to demolition. Also, all asbestos must be removed prior to an intentional burn.)*

RACM/ACM to be removed	RACM to be Encapsulated	Non-friable ACM not removed prior to demo. Category I	Category II	Units of Measure
				☐ Ln. Ft. ☐ Ln. M.
2049				☑ Sq. Ft. ☐ Sq. M.
				☐ Cu. Ft.* ☐ Cu. M.*

*Volume (cubic ft./meters) should be used only if unable to measure by linear/square measure (example: asbestos has fallen off of surface).

NOTIFICATION OF INTENT TO RENOVATE/DEMOLISH (continued)

11. PROJECT DESCRIPTION: Complete **A) for Renovation** (asbestos removal/encapsulation) or **B) for Demolition:**

A) RENOVATION: Mark all surfaces/types of RACM to be removed:

☐ Piping ☐ Fittings ☐ Boiler(s) ☐ Tanks(s)
☐ Beam(s) ☐ Duct(s) ☐ Tunnel(s) ☐ Ceiling Tile(s)
☐ Mag Block ☑ Other (describe):
joint compound

Encapsulation (for LARA): Mark surfaces/types to be encapsulated:

☐ Piping ☐ Fittings ☐ Boiler(s) ☐ Tanks(s)
☐ Beam(s) ☐ Duct(s) ☐ Tunnel(s) ☐ Ceiling Tile(s)
☐ Other (describe):

Method of removal: Describe how the asbestos will be removed:

☐ Glove Bag ☑ Neg. Pressure Cont. ☐ Cut into sections and remove ☐ Hand Scraping
☐ Dry Removal (please provide attachment with a description and explanation ☐ Other (describe):

B) DEMOLITION: Indicate if complete or partial demolition:

☐ **Complete** or ☐ **Partial** (describe part of facility to be demolished):

Method of Demolition: Describe the method of demolition of facility, bridge, etc.:

☐ Excavator or other heavy equipment ☐ Disassembly by hand ☐ Explosives ☐ Other (describe):

12. ENGINEERING CONTROLS: Describe work practices and engineering controls used to prevent visible emissions before, during, and after removal, and until proper disposal:

☑ Water spray to control dust ☑ Place in leak tight containers ☑ Adequately wet material ☐ Other (describe):

13. UNEXPECTED ASBESTOS: Describe the steps you intend to follow in the event that unexpected RACM is found or previously non-friable asbestos becomes friable (crumbled, pulverized, reduced to powder, etc.) and therefore regulated:

☑ Stop Work ☑ Wet material ☑ Contact DEQ and abatement contractor ☑ Revise notification ☐ Other (describe):

14. PROCEDURE(S) USED TO DETECT THE PRESENCE OF ASBESTOS:

A) Indicate how you determined whether or not asbestos is in the facility. If analytical sampling was used, describe method of analysis. (The determination of the presence or absence of asbestos must be made prior to submitting a renovation/demolition notification):

☑ All suspect materials sampled and analyzed using Polarized Light Microscopy (PLM) ☐ Other (describe):

B) Name, address, and phone number of company performing asbestos survey: Fishbeck, 616-575-3824, MI,

C) Name, accreditation number of inspector, and date of inspection: Ryan Krozek, 51567, 03/01/2024

15. EMERGENCY RENOVATIONS: Date/time of emergency:

Describe the sudden, unexpected event:

Explain how the event caused unsafe conditions, and/or would cause equipment damage and/or an unreasonable financial burden:

16. I certify that an individual trained in the provisions of 40 CFR Part 61, Subpart M, will be on-site during the renovation and during demolition involving RACM above the threshold and/or during an ordered demolition. Evidence that this person has completed the required training will be available for inspection at the renovation or demolition site.

Jodi Vlaming	04/19/2024
Signature of Owner or Abatement/Demolition Contractor	*Date*

17. Signature Requirements for Projects with Negative Pressure Enclosures: (required by LARA)

Per Section 221(1)(2) of P.A. 135 of 1986, as amended, clearance air monitoring is required for any asbestos abatement project involving 10 linear feet/15 square feet or more of friable material which is performed within a negative pressure enclosure. I (the building owner or lessee) have been advised by the contractor of my responsibility under Act 135 to have clearance air monitoring performed on this project.

		Jodi Vlaming	04/19/2024
Signature of Building Owner or Lessee	*Date*	*Signature of Asbestos Abatement Contractor Representative*	*Date*

NOTE: It is not mandatory that a signed copy be sent to LARA unless requested.

For affected projects, this section of the notification form must be completed, signed, and made part of **your** records before the project begins.

18. I certify that the above information is correct:

Jodi Vlaming	04/19/2024	Jodi Vlaming	04/19/2024
Printed Name of Owner/Operator	*Date*	*Signature of Owner/Operator*	*Date*

Extremely Urgent

Express

Extremely Urgent

FOLD HERE

EGLE – AQD
525 W ALLEGAN ST
LANSING MI 48933

P: MR2 S: EVEN I: 95A

214 – 8606 X 2330

1Z434119X299731 3728

CLCOCHI HTLAN35EUDC JUN 12 07:02:42 2024
US 48933 HIP 24.3.1 21411R

LAURA KURTYCZ
6165919278
MERITAGE HOSPITALITY GROI
45 OTTAWA AVENUE SW
GRAND RAPIDS MI 49503

SHIP TO:
JEREMY HOWE, TF
517-284-6651
EGLE - AQD
1ST FLOOR, SOUTH
CONSTITUTION HALL
525 WEST ALLEGAN
LANSING MI 48933-1502

MI 489 0-02

UPS NEXT DAY AIR SAVER 1P

TRACKING #: 1Z 434 19X 29 9731 3728

BILLING: P/P
SIGNATURE REQUIRED

CS 245.00. WNT NV90 24.0A 06/2024*

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