

JUL-31-2002 12:52

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DATE: July 31, 2002
TO ATTENTION OF: Kathy Callahan
COMPANY: EPA, Region 2
TO TELECOPIER #: 212-637-3998
FROM TELECOPIER #: 212-966-2162
SENT BY: Ellen Gesmer
REFERENCE: 125 Cedar Street

NUMBER OF PAGES TRANSMITTED
(Not including this
transmittal sheet): 7

MESSAGE:

cc: Yvonne Morrow, Office of	
Speaker Sheldon Silver	Via Fax: 212-312-1425
Bonnie Bellow, EPA	Via Fax: 212-637-3561
Robert Fitzpatrick,	
EPA Region 2	Via Fax: 212-637-3998
Michael Gilsenan, Assistant	
Deputy Commissioner, DEP	Via Fax: 718-595-4544
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Congressman Nadler	Via Fax: 212-367-7356
Luis Reyes, Office of City	
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July 31, 2002

VIA FAX: 212-637-3998

Cathy Callahan

Environmental Protection Agency, Region 2

290 Broadway

New York, New York 10007-1866

Re: 125 Cedar Street

Dear Ms. Callahan:

I am writing to thank you for meeting with a group of the tenants and my associate on June 26, 2002 and for your continuing work with us since then. I am writing to confirm the matters we discussed and to clarify the open issues.

During the meeting on June 26, Mike Gilsenan of the DEP informed us that the roof of 125 Cedar had been cleaned the previous weekend and that the facade cleaning, possibly including the window sills, was to begin the next day at 10:00 a.m. It was confirmed by Mr. Gilsenan and you that the building is being treated as an asbestos abatement using health based standards for the cleanup. Since then, the facade cleaning has begun but has not yet been completed.

In addressing our concerns about the change from an EPA to a DEP cleanup, Mr. Gilsenan informed us that the change was required because of the structure of FEMA funding. He stated that the DEP is currently conducting an interior cleaning of 30 West Broadway. You told us that the EPA has been cleaning occupied buildings with 110 Liberty Street as a pilot building.

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Mr. Gilsenan reported and you confirmed that the DEP will be hiring contractors certified by the City and State for a full asbestos abatement, the rules and regulations for which are on the DEP website. Mr. Gilsenan also reported that DEP will be hiring a consultant to develop a specific scope for cleaning the interior of 125 Cedar, which will then be meshed with DEP's generic scope for asbestos abatement. You confirmed that the EPA will review the scope and the tenants will have an opportunity to review it before work is commenced. Both you and Mr. Gilsenan confirmed that this consultant would be hired by the week following the July 4th holiday. Last week, Mr. Gilsenan advised us that a draft of the scope had been completed and forwarded to the EPA for its review. It is our understanding that the draft scope will then be forwarded to us for our review. Please advise us when the EPA review will be completed and when we can expect to receive it. It is our understanding that it is still the intention to begin the interior cleaning in approximately mid-August.

You advised us that the EPA is the lead agency in disaster response for overall indoor air cleanup post 9-11. You assured us that the EPA will oversee the 125 Cedar cleanup and that you will provide a written confirmation outlining Bob Fitzpatrick's role in monitoring the process. We still have not received that.

Mr. Gilsenan scheduled an initial walk-through of the apartments by DEP and the tenants for July 1 and 2 to see what items needed to be cleaned or disposed of. Mr. Gilsenan advised us and you confirmed that this would not be a scope development walk-through but the first step to give tenants an opportunity to talk with the DEP individually about their apartments. You emphasized that this was only a first step and that it was optional for the tenants to participate in this initial walk-through. You also assured us that if any tenants were not available for this walk-through, there will be other opportunities. It later turned out that DEP was planning to develop the scope without conducting a further walk-through. When the tenants objected, since many had not been present for the initial walk-through, a further walk-through was scheduled for August 1, 2 and 3, at which

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representatives of both the EPA and DEP will be present. Pat Moore is working with Bob Fitzpatrick to ensure that the walk-through of each apartment is thorough and comprehensive.

Tenants were informed by Bob Fitzpatrick that they must wear their own respirators during the walk-through and that he would provide Tyvec suits. He also agreed to work with Pat Moore on logistics. He confirmed that hollow brick walls and buckled wood floors would be inspected during the walk-through.

Mr. Gilsenan advised us that as soon as the consultant is on board, there will be another walk-through.

When asked for an overall time line, Mr. Gilsenan advised that the consultant would be hired within one week after the July 4th holiday; the contract would go out to bid in the following 1½ to 2 weeks; it would be an expedited contracting process with a pre-qualified contractor; and that the 2nd week in August would be a realistic date for the interior cleanup to begin. Mr. Gilsenan also expressed that this time line was optimistic but that he would do his best to stick to it. While he was unsure at this point as to the length of time needed for the cleanup, he agreed to keep the tenants informed of the time frame.

When asked about testing for ten metals and mercury, you advised us that wipe tests and vapor instrumentation would be performed before cleaning, and that, if mercury is found, special protocols would be implemented for removing it as the EPA had previously agreed. You advised us that the EPA still needs to discuss the issue of dioxin with your experts, but that you would know something by the following week. We still have not heard anything from you on this issue; please advise us promptly of your decision, since it is our understanding that an asbestos remediation will not necessarily remove any dioxin present, so we believe it is important that there be pre-testing for dioxin so that the cleaning protocol can be adjusted if necessary.

When we expressed our additional concerns about the mold growing in certain apartments, Bob Fitzpatrick assured us that

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he would inspect this during the following Monday's walk-through. Mike Gilsenan agreed to contact the Department of Health regarding the mold and Ben Barry of the EPA agreed to be the coordinator between the DEP, DOH, and the tenants. The DOH finally inspected on July 15, 2002.

Mike Gilsenan informed us that the DEP may have to hire other experts after the scope, which includes pre-testing, is developed because the DEP's expertise is in asbestos. He also stated that his contractors will subcontract with experts in other substances and that the DEP will look to EPA for guidance regarding dioxin.

Mr. Gilsenan confirmed that the entire building including the commercial spaces will be included in the cleanup. You agreed to work out the tenants' presence during the cleanup stating that it would be possible to arrange scheduled access but asked that only one person per apartment be present at a time. You also confirmed that an on-site coordinator would document the cleanup. Pat Moore advised you and Mike Gilsenan that all tenants will want access during the cleanup. This is a critical issue because of the bad experiences that the tenants have had with other agencies and contractors throwing out their belongings. When the tenants asked about hiring their own outside consultant to monitor the cleanup, Bob Fitzpatrick confirmed that as long as that person is properly trained for this kind of abatement, he or she may have access during the cleanup.

Mike Gilsenan has since informed Pat Moore that he has conferred with you and that tenants will only be permitted to be present if they have been fit tested for respirators and have received medical clearance from a doctor. He agreed to send us the requirements for doing this. This remains a very important issue to us on which we need further clarification.

The tenants then expressed concern about contamination of clothing or other soft items they have already washed. You and Bob Fitzpatrick advised the tenants that risk assessors at the EPA can help tenants with advice about that type of contamination. Bob Fitzpatrick agreed to obtain information

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for tenants. We have not yet received that information from him.

When asked about articles the tenants have moved off-site, Mike Gilsenan discussed the possibility of going to storage sites or having tenants bring their items to a central location, perhaps within 125 Cedar, for decontamination. You, Bob Fitzpatrick, and Mr. Gilsenan agreed to discuss this issue with the consultant. Pat Moore agreed to have tenants make lists of their items, indicating whether they were bagged dirty or cleaned, and the locations of storage. We have not yet received a response from either the EPA or DEP as to their proposal for cleaning the tenants' off-site possessions.

Mike Gilsenan advised us that the cleanup methodology for apartments will be as follows: the DEP will begin on the top floor and work down; they will clean for asbestos, metals, and dioxin at the same time (as determined by scope); the HUD standard for lead cleanup of non-porous flat surfaces will be used; DEP will work with DOH for cleaning other surfaces; and DEP will coordinate with Con Ed for electricity during cleanup.

The tenants expressed their concerns about re-contamination and asked about post clean-up testing. You advised us that while EPA does not have a long-term plan to retest, whether they will at 125 Cedar depends on events in the neighborhood, such as whether Deutsche Bank or other buildings are demolished, and what the background study reveals about asbestos levels. Mike Gilsenan advised that when Deutsche Bank was built, asbestos was no longer used in construction. He also stated that the bank had filed an asbestos abatement to clean their records contaminated by WTC debris, and had sealed off part of the building with polypropylene for this purpose, but it was not clear yet if the building would be demolished. Mr. Gilsenan and Bob Fitzpatrick agreed to find out the status of record cleaning within bank. We have not yet heard anything concerning this.

Mike Gilsenan agreed to ask the co-op at 114 to supply him with information regarding what their cleanup involves and

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will check to see if he already has anything on file. We have not yet heard anything concerning this.

Finally, in conversations during the last few weeks, Bob has indicated that they will remove built-in items, such as cabinets, loft beds and built-in seating. Please confirm whether tenants must agree to have their built-ins removed.

In summary, the issues on which we are still awaiting information, from either the EPA or the DEP are as follows:

1. When the EPA will complete its review of the scope of work developed by DEP and when we can expect to receive it for our review.
2. Written confirmation outlining Bob Fitzpatrick's role in monitoring the clean up process.
3. The EPA's decision on pre-testing for dioxin and then, if necessary, a protocol for cleaning for it.
4. A response from EPA and the DEP as to the requirements that tenants must meet in order to be present during the clean up of their apartments.
5. A response from either the EPA or DEP as to their proposal for cleaning the tenants' off-site possessions.
6. Information from either Bob Fitzpatrick or Mike Gilsenan concerning Deutsche Bank's cleaning of its records.
7. Information from Gilsenan concerning the clean up of 114.
8. Information from Bob Fitzpatrick concerning the cleaning of soft items.
9. The extent to which removal of built-ins is necessary.

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Again, thank you for your willingness to work with us on these issues. I look forward to hearing from you soon.

Very truly yours,

GULIELMETTI & GESMER, P.C.

By: 

Ellen Gesmer

EG:ca

cc: 125 Cedar Street Tenants
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Bonnie Bellow, EPA
Bob Fitzpatrick, EPA
Mike Gilsenan, DEP
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