

From: "Periconi, James J." <jpericoni@windelsmarx.com>
To: "Gerald J. McDonald" <gjm04@health.state.ny.us>
Date: 6/27/02 11:18AM
Subject: PS 65

Mr. McDonald,

Late yesterday, I called Dave Harrington of NYSDEC, who made the request for permission to enter Radar Associates, Inc.'s building, now leased to the Board of Ed for P.S. 65 in Ozone Park, Queens, in order to bore soil gas holes in the floor of the school. (He had directed me to you solely to determine how many holes DOH wanted to make, where they were to be placed, as well as an explanation of why this was needed.) The purpose of my call to him last night was to let him know that even after due consideration of the issues we discussed, we cannot give the permission requested. I expect he will call you or has called you about this.

The purpose of this note, as well as to give you the courtesy of letting you know directly, is that I'm not sure your e-mail to Ed Horn and others completely or accurately reflects our conversation and the reasons we raised, especially the weight given these factors. The principal reason for our declining permission is that there is simply no justification in any data gathered to date for such invasive work in the basement of this completely renovated school. Your e-mail failed to reflect two parts of our discussion. First, the ambient air quality tests recently conducted by ATC Corp. for the Board of Ed; and, second, particularly the fact that we believe that the proper pre-conditions for such invasive work are the outside soil gas monitoring that NYSDEC will very shortly undertake, which you mentioned, but also reliable indoor ambient air quality monitoring that NYSDOH is free to take. We understand from you that the State cannot rely on the recent indoor results because the lab ATC used was not ELAP-certified; other infirmities may exist. If these infirmities are the concern, then NYSDOH should retake those tests to satisfy itself. As I noted repeatedly in our conversations, we think there are not one, but at least two types of data missing: (1) outside of the building soil gas tests to be taken by NYSDEC and (2) new indoor air quality tests to be taken by NYSDOH. These would provide the natural, scientifically defensible preconditions to undertaking invasive work in the school building.

In addition, upon our further review of the ATC data that you used to justify a need to do the soil gas borings, because of alleged disparity between background levels and interior levels - namely, comparison of roof test results for TCE with interior TCE readings, for 6/1/02 - we find no justification there. The background levels on 6/1/02 of 2.2 ppb for TCE on the roof is statistically indistinguishable from all the other results except for those of one room (C01); that room is the ONLY room tested that contains carpeting, laid down with adhesive and receiving frequent cleaning by janitorial staff. These factors, all of which have the potential for TCE offgassing, much more likely explain the anomalous result of 8.4 ppb. (Similar anomalies exist in the 5/31 tests taken under very different conditions.) So, really, absolutely nothing in the tests to date inside the building suggest a legitimate concern with TCE infiltration into the building from soil gas.

There are many other reasons and factors, but this is the main one. Again, I reiterate that Radar is as concerned as the State and City that no