

**CASE NO. 1410110949**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>TOM GREEN COUNTY LIBRARY</b>	<b>§</b>	<b>DEPARTMENT OF STATE</b>
	<b>§</b>	<b>HEALTH SERVICES</b>
	<b>§</b>	
<b>SAN ANGELO, TEXAS</b>	<b>§</b>	<b>AUSTIN, TEXAS</b>

**AGREED ORDER**

**I. JURISDICTION**

The Department of State Health Services, Division for Regulatory Services (department) is authorized to enforce the Texas Asbestos Health Protection Act, Occupations Code, Chapter 1954 (Act); the Texas Asbestos Health Protection Rules (Rules), Title 25 TAC, Part 1, Chapter 295; the National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR Part 61, Subpart M; and the Asbestos Hazard Emergency Response Act (AHERA), 40 CFR Part 763, Subpart E.

**II. RESPONDENT**

Tom Green County Library (Respondent) is an owner/operator of a renovation/demolition project and, as such, is subject to the aforementioned Act and Rules.

**III. FACTS**

A notification form (Notification No. 2010002484) for the Tom Green County Library located at 33 West Beauregard, San Angelo, Texas was submitted to the department. A notification fee was calculated for the processing of the notification form, and an invoice was sent on June 2, 2010. The department required sixty (60) days for remittance of the notification fee. After August 2, 2010, the invoice was considered to be delinquent.

As a result of the subsequent review of department files, it was determined that Respondent failed to comply with various provisions of the Rules, Act or NESHAP as referenced in "I. Jurisdiction." The violation is described in Certified Letter No. 7011 0470 0003 0320 8295 and U.S. Mail, dated June 30, 2011 (hereinafter, "Notice Letter"), referenced in "IV. Notice."

The following violation was alleged:

- Failure to pay the required notification fee in violation of 25 TAC §295.61(j)(4) - penalty amount of \$500.00.

**IV. NOTICE**

By the Notice Letter, Ms. Roni S. Thompson, Division for Regulatory Services, informed Respondent of the department's intent to collect the past due \$57.00 notification fee and assess an administrative penalty of \$500.00. The letter was received by Respondent.

## **V. RESPONSE**

Respondent responded to the department's Notice Letter by requesting an informal conference.

## **VI. SETTLEMENT**

On July 7, 2011, an informal conference was held between representatives of the department and Respondent. The parties reached a proposed settlement, the terms of which are contained in the "It is Ordered" section of this Order, based on various factors including the desire to avoid litigation.

Respondent agrees to terms of this Order as evidenced by signing the Order. The following terms were agreed upon:

- Failure to pay the required notification fee in violation of 25 TAC §295.61(j)(4) - penalty amount of \$100.00; and
- The \$57.00 fee for Notification No. 2010002484 must be remitted to the department.

Respondent has no objection to this Order being signed by the Commissioner of State Health Services or his designee.

## **VII. COMPLETE SETTLEMENT**

The facts contained herein are the complete settlement of all issues regarding the violation(s) described in "IV. Notice" of this Order.

### **A. WAIVER OF HEARING**

In exchange for the execution of this Order, Respondent waives the right to a hearing.

### **B. NO WAIVER WITH REGARD TO FUTURE VIOLATIONS**

The department does not waive the right to enforce future violations committed by Respondent.

### **C. COMPLETE UNDERSTANDING**

The department and Respondent acknowledge that they understand the terms of this settlement, enter into the settlement freely, and agree to the terms.

### **D. NO RIGHT TO APPEAL**

Respondent waives the right to judicial review of this Order.

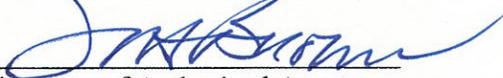
**NOW THEREFORE, IT IS ORDERED** that:

- .1. Respondent pay the past due notification fee and an administrative penalty, in the total amount of \$157.00, in full settlement for the violation(s) that is/are the subject of this Order. Payment must be made by cashier's check or money order and mailed to: Department of State Health Services (DSHS), Mail Code 2003, P.O. Box 149347, Austin, Texas 78714-9347. Each cashier's check or money order must be made payable to the Department of State Health Services and must also include the notation: "Deposit in Account ZZ156-178, Case No. 1410110949."
2. Payment is due in one lump sum payment, thirty (30) days from the date this Order is signed by the department.
3. Respondent shall comply with this Order and with all applicable laws, rules and regulations. Failure to comply may result in additional enforcement action and the department seeking administrative penalties as originally proposed in the Notice Letter dated June 30, 2011.

Enforcement Unit Director signed and ordered this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Kathryn C. Perkins, RN, MBA  
Assistant Commissioner  
Division for Regulatory Services

**AGREED TO BY RESPONDENT:**

  
\_\_\_\_\_  
Signature of Authorized Agent

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature Date