

Executive Summary – Enforcement Matter – Case No. 61604

Clarity Homes, Ltd.

RN110464385

Docket No. 2022-0060-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Parks of Aledo, located at Tallgrass Drive and Highlands Avenue, Aledo, Parker County

Type of Operation:

Large construction site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 14, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,250

Amount Deferred for Expedited Settlement: \$2,250

Total Paid to General Revenue: \$9,000

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 6, 2021

Date(s) of NOE(s): October 29, 2021

Executive Summary – Enforcement Matter – Case No. 61604
Clarity Homes, Ltd.
RN110464385
Docket No. 2022-0060-WQ-E

Violation Information

1. Failed to properly select, install, and maintain control measures according to the manufacturer's or designer's specifications. Specifically, the Respondent installed sediment controls that were not sufficient to minimize the offsite flow of sediment at the lots located at 844, 848, 864, and 868 Highlands Avenue [30 TEX. ADMIN. CODE § 281.25(a)(4) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR15418Q Part III, Section F(2)(a)(ii)].

2. Failed to design, install, implement, and maintain effective pollution prevention measures to minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present at the Site to precipitation and to stormwater. Specifically, trash and construction debris was documented at the lots located at 844, 848, 864, and 868 Highlands Avenue [30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR15418Q Part III, Section (G)(4)(b)].

3. Failed to minimize the discharge of concrete wastewater. Specifically, disposed concrete and an inadequate concrete washout basin was documented at the lot located at 868 Highlands Avenue [30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR15418Q Part III, Section (G)(5)(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Install sediment controls and concrete washout controls that are sufficient to minimize the offsite flow of sediment from the Site;

ii. Remove accumulated pollutants including trash, construction debris, and disposed concrete from lot numbers 844, 848, 864, and 868; and

iii. Install a basin that is designed for concrete washout.

b. Within 45 days, submit written certification to demonstrate compliance with a.

**Executive Summary – Enforcement Matter – Case No. 61604
Clarity Homes, Ltd.
RN110464385
Docket No. 2022-0060-WQ-E**

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ellen Ojeda, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-2581; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: William Bannister, President, Clarity Homes, Ltd., 3605 El Campo Avenue, Fort Worth, Texas 76107

John Newton, Vice President, Clarity Homes, Ltd., 3605 El Campo Avenue, Fort Worth, Texas 76107

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	15-Nov-2021	Screening	29-Nov-2021	EPA Due	
	PCW	10-Jan-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	Clarity Homes, Ltd.
Reg. Ent. Ref. No.	RN110464385
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61604	No. of Violations	3
Docket No.	2022-0060-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ellen Ojeda
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for Compliance History.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$259
 Estimated Cost of Compliance: \$2,600
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$11,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,250
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,250
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$9,000
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Screening Date 29-Nov-2021

Docket No. 2022-0060-WQ-E

PCW

Respondent Clarity Homes, Ltd.

Policy Revision 5 (January 28, 2021)

Case ID No. 61604

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN110464385

Media Water Quality

Enf. Coordinator Ellen Ojeda

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for Compliance History.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 29-Nov-2021

Docket No. 2022-0060-WQ-E

PCW

Respondent Clarity Homes, Ltd.

Policy Revision 5 (January 28, 2021)

Case ID No. 61604

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN110464385

Media Water Quality

Enf. Coordinator Ellen Ojeda

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR15418Q Part III, Section F(2)(a)(ii)

Violation Description Failed to properly select, install, and maintain control measures according to the manufacturer's or designer's specifications. Specifically, the Respondent installed sediment controls that were not sufficient to minimize the offsite flow of sediment at the lots located at 844, 848, 864, and 868 Highlands Avenue.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 54

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and checkboxes.

Violation Base Penalty \$3,750

One quarterly event is recommended, calculated from the investigation date (October 6, 2021) to the screening date (November 29, 2021).

Good Faith Efforts to Comply

0.0% Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Table with columns: Extraordinary, Ordinary, N/A and checkboxes.

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$178

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent Clarity Homes, Ltd.
Case ID No. 61604
Reg. Ent. Reference No. RN110464385
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$1,500	6-Oct-2021	19-May-2023	1.62	\$8	\$162	\$170
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$100	6-Oct-2021	19-May-2023	1.62	\$8	n/a	\$8
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated Engineering/Construction cost to install and maintain sediment controls at lot numbers 844, 848, 864, and 868. The Date Required is the investigation date, and the Final Date is the estimated date of compliance. Estimated Remediation/Disposal cost to dispose of construction debris and other materials from lot numbers 844, 848, 864, and 868. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.						

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance

\$1,600

TOTAL

\$178

Screening Date 29-Nov-2021 **Docket No.** 2022-0060-WQ-E **PCW**
Respondent Clarity Homes, Ltd. *Policy Revision 5 (January 28, 2021)*
Case ID No. 61604 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN110464385
Media Water Quality
Enf. Coordinator Ellen Ojeda

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and TPDES General Permit No. TXR15418Q Part III, Section (G)(4)(b)
Violation Description Failed to design, install, implement, and maintain effective pollution prevention measures to minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present at the Site to precipitation and to stormwater. Specifically, trash and construction debris were documented at the lots located at 844, 848, 864, and 868 Highlands Avenue.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	15.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 54 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended, calculated from the investigation date (October 6, 2021) to the screening date (November 29, 2021).

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$0 **Violation Final Penalty Total** \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent Clarity Homes, Ltd.
Case ID No. 61604
Reg. Ent. Reference No. RN110464385
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Remediation/Disposal cost to dispose of construction debris and other materials from lot numbers 844, 848, 864, and 868 is captured in Economic Benefit Worksheet No. 1.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 29-Nov-2021 **Docket No.** 2022-0060-WQ-E **PCW**
Respondent Clarity Homes, Ltd. *Policy Revision 5 (January 28, 2021)*
Case ID No. 61604 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN110464385
Media Water Quality
Enf. Coordinator Ellen Ojeda

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and TPDES General Permit No. TXR15418Q Part III, Section (G)(5)(a)
Violation Description Failed to minimize the discharge of concrete wastewater. Specifically, disposed concrete and an inadequate concrete washout basin was documented at the lot located at 868 Highlands Avenue.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	15.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 54 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended, calculated from the investigation date (October 6, 2021) to the screening date (November 29, 2021).

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$81 **Violation Final Penalty Total** \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent Clarity Homes, Ltd.
Case ID No. 61604
Reg. Ent. Reference No. RN110464385
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,000	6-Oct-2021	19-May-2023	1.62	\$81	n/a	\$81
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated Remediation/Disposal cost to dispose of discharged concrete and concrete washout from lot number 868 and construct a concrete washout basin and disposal area. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.						

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance	\$1,000	TOTAL	\$81
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The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN603024969, RN110464385, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN603024969, Clarity Homes, LTD. **Classification:** SATISFACTORY **Rating:** 1.00

Regulated Entity: RN110464385, PARKS OF ALEDO **Classification:** HIGH **Rating:** 0.00

Complexity Points: 6 **Repeat Violator:** NO

CH Group: 09 - Construction

Location: Tallgrass Drive and Highlands Avenue, Parker County Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):
STORMWATER PERMIT TXR15418Q

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: November 30, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 30, 2017 to November 30, 2022

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Ellen Ojeda

Phone: (512) 239-2581

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CLARITY HOMES, LTD.
RN110464385

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2022-0060-WQ-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Clarity Homes, Ltd. (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a large construction site located at Tallgrass Drive and Highlands Avenue in Aledo, Parker County, Texas (the "Site"). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$11,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$9,000 of the penalty and \$2,250 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

During an investigation for the Site conducted on October 6, 2021, an investigator documented that the Respondent:

1. Failed to properly select, install, and maintain control measures according to the manufacturer's or designer's specifications, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR15418Q Part III, Section F(2)(a)(ii). Specifically, the Respondent installed sediment controls that were not sufficient to minimize the offsite flow of sediment at the lots located at 844, 848, 864, and 868 Highlands Avenue.
2. Failed to design, install, implement, and maintain effective pollution prevention measures to minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present at the Site to precipitation and to stormwater, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR15418Q Part III, Section (G)(4)(b). Specifically, trash and construction debris was documented at the lots located at 844, 848, 864, and 868 Highlands Avenue.
3. Failed to minimize the discharge of concrete wastewater, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR15418Q Part III, Section (G)(5)(a). Specifically, disposed concrete and an inadequate concrete washout basin was documented at the lot located at 868 Highlands Avenue.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ"

and shall be sent with the notation "Re: Clarity Homes, Ltd., Docket No. 2022-0060-WQ-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days of the effective date of this Order:
 - i. Install sediment controls and concrete washout controls that are sufficient to minimize the offsite flow of sediment from the Site;
 - ii. Remove accumulated pollutants including trash, construction debris, and disposed concrete from lot numbers 844, 848, 864, and 868; and
 - iii. Install a basin that is designed for concrete washout.
 - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i, 2.a.ii, and 2.a.iii. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.

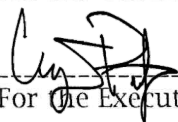
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



6/5/2023

For the Executive Director


Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

3-9-2023
Date

John Newton
Name (Printed or typed)
Authorized Representative of
Clarity Homes, Ltd.

Vice President
Title

If mailing address has changed, please check this box and provide the new address below:

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.