

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director,)
NEBRASKA DEPARTMENT OF)
ENVIROMENTAL QUALITY,)
)
Plaintiff,)
)
v.)
)
LONG VIEW ESTATES, INC.,)
)
Defendant.)
)

Case No. _____

COMPLAINT

COMES NOW Plaintiff, the Nebraska Department of Environmental Quality (hereinafter the "NDEQ" or "Plaintiff") who institutes this action through Jon C. Bruning, Attorney General of the State of Nebraska, and alleges and states as follows:

I. FIRST CAUSE OF ACTION

1. Plaintiff is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. §81-1504(1) (Reissue 1999) of exercising exclusive supervision, administration and enforcement of the Environmental Protection Act, Neb. Rev. Stat. §81-1501 (Reissue 1999, Cum. Supp. 2004) et seq and all rules, regulations, and order promulgated thereunder.

2. The Defendant, Long View Estates, Inc., ("Defendant") is a Nebraska Corporation doing business in Lancaster County, Nebraska. The Defendant is developing residential housing (50 lots) at SW 40th and Van Dorn in Lincoln, Nebraska.

3. Neb. Rev. Stat. §81-1506(2)(b) (Reissue 1999) provides in pertinent part as follows: "(2) It shall be unlawful for any person to . . . "[c]onstruct, install, modify, or operate any disposal system or part thereof or any extension or addition thereto without obtaining necessary permits from [NDEQ]"

4. On or about July 29, 2002 and continuing each weekday until August 12, 2002, Defendant constructed a residential sewer system in Lincoln, Nebraska without applying for or obtaining the necessary permit from NDEQ.

5. Pursuant to Neb. Rev. Stat. §81-1508.02(2), a civil penalty of up to ten thousand dollars (\$10,000) per day is provided for a violation of Neb. Rev. Stat. §81-1506. In the case of a continuing violation, each day shall constitute a separate offense.

II. SECOND CAUSE OF ACTION

6. Plaintiff incorporates each and every allegation contained in paragraphs 1 through 5 of its first cause of action.

7. Pursuant to Neb. Rev. Stat. §§81-1505(1)(Reissue 1999, Cum Supp 2003) the Nebraska Environmental Quality Council duly adopted Title 123, Rules and Regulations for Design, Operation, and Maintenance of Wastewater Treatment Works, which was in effect at all times material herein.

8. Title 123 provides in pertinent part as follows:

"...Chapter 3 - PLANS, SPECIFICATIONS AND REPORTS 001 No person shall install, change or make alterations in or additions to any wastewater works, until complete plans and specifications or additional information in writing and

drawings fully describing the proposed work have been submitted to the Department for a review and approval and a construction permit has been issued. Plans and specifications for public works must be prepared and submitted by a professional engineer duly registered to practice in the State of Nebraska. Engineering reports may be required by the Department if needed for describing the details of design, construction and operation....”

9. Pursuant to Neb. Rev. Stat. §81-1508.02(1)(b) it is unlawful to violate any provision or fail to perform any duty imposed by the rules and regulations adopted pursuant to the Environmental Protection Act.

10. On or about July 29, 2002 and continuing each weekday until August 12, 2002, Defendant installed a residential sewer system in Lincoln, Nebraska without submitting complete plans and specification of the proposed work or obtaining the necessary construction permit from NDEQ.

11. Pursuant to Neb. Rev. Stat. §81-1508.02 (Reissue 1999) a civil penalty of up to ten thousand dollars (\$10,000) is provided in instances of violation of Design, Operation, and Maintenance of Wastewater Treatment Works rules and regulations.

WHEREFORE, the Plaintiff prays that judgment be entered in favor of the Plaintiff and against the Defendant in the form of civil penalties as provided under Neb. Rev. Stat. §81-1508.02 (Reissue 1999), and that all costs of this action be taxed to the Defendant.

Dated this 29th day of March, 2006.

STATE OF NEBRASKA, ex rel.,
MICHAEL J. LINDER, Director,
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY, Plaintiff

By Jon C. Bruning, #20351
Attorney General

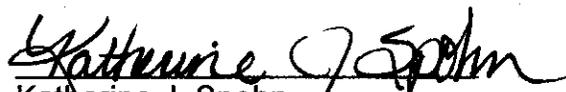
By 
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Attorneys for Plaintiff.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Complaint has been served upon the Defendant by regular United States mail, first class postage prepaid on this 29th day of March, 2006 addressed to the Defendant's attorney of record as follows:

Nancy Loftis, Attorney
910 L Street
Lincoln, NE 68508-2228


Katherine J. Spohn
Assistant Attorney General